4 P. F.

SUPREME COURT OF THE UNITED STATES.

No. 162.

CATHARINE HILL, PLAINTIFF IN ERROR,

vs.

JOSEPH W. TUCKER, EXECUTOR OF ABNER ROBINSON, DECEASED.

IN ERROR TO THE CIRCUIT COURT, UNITED STATES, FOR THE EASTERN DISTRICT OF LOUISIANA.

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Circuit court of the United States, fifth circuit and eastern district of Louisiana.

Mrs. Catharine Hill
vs. } No. 1863.
J. W. Tucker, executor, &c.

Pleas and proceedings before the honorable the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, being the April term, 1850, of the said court, held at the city of New Orleans, in the district aforesaid, on the 13th day of June, A. D. 1850.

Be it remembered, that, on the 29th day of February, 1848, the plaintiff, by her attorney, Robert Mott, esqr., came and filed, in the clerk's office of said court, a petition, which is in the words and figures following, to wit:

Petition, filed February 29th, 1848.

To the honorable the judges of the United States circuit court, for the fifth circuit and district of Louisiana.

The petition of Mrs. Catharine Hill, residing in Richmond, in the State of Virginia, of which State she is a citizen, herein aided and assisted by her husband, Nathaniel B. Hill, also a citizen of the said State, respectfully represents:

That Joseph W. Tucker, residing in the parish of La Fourche Interior, and a citizen of the State of Louisiana, executor of Abner Robinson, deceased, by appointment of the will of said Robinson, and confirmation of the late probate court of the parish of La Fourche Interior, in the State of Louisiana, is justly and truly indebted to petitioner in the full sum of two thousand and fourteen $\frac{5}{100}$ dollars, with interest at the rate of six per cent. per annum, as follows: On one thousand dollars from 10th of March, 1840, until paid; on two hundred dollars from 1st January, 1843, until paid; on two hundred dollars from 19th August, 1842, until paid; and on five hundred and seventy-five dollars from 20th February, 1840; for this, to wit, that James P. Wilkinson recovered a judgment in the circuit superior court of law and chancery, for the county of Henrico, and city of Richmond, in the State of Virginia, held for the trial of civil causes on Saturday, the sixth day of June, 1840, against Archer Cheatham, Abner Robinson, and Isham Puckett, in solido, for the sum of one thousand dollars, with interest thereon, to be computed at the rate of six per centum per annum from the 10th day of March, 1840, till payment; and two dollars and ninety-five cents costs of protest, and the costs of said suit, which amounted to nine $\frac{5}{100}$ dollars; that said judgment became final, and was and is a good and subsisting claim against the succession and estate of the said Abner Robinson, de-

ceased; all of which will more fully appear by a duly certified transcript of the record of the said judgment hereto annexed for reference, and marked exhibit A; that subsequently to the rendition of the said judgment, Archer Cheatham was, by the circuit court of the United States, for the district of Columbia, sitting in bankruptcy in and for the county of Washington, on the 29th of August, 1842, fully discharged as a bankrupt from all his liabilities, as will more fully appear by the discharge of Archer Cheatham, hereto annexed and marked B; and that the said Isham Puckett was, by the United States district court, for the eastern district of Virginia, sitting in bankruptcy on the 12th January, 1843, also discharged from all his liabilities and responsibilities and debts as a bankrupt, as will appear by the certificate of his discharge, annexed hereto and marked exhibit C.

That petitioner is the holder and owner of three judgments against Joseph Allen and William R. Johnson, testamentary executors of the said Abner Robinson, deceased, which are as follows, to wit:

1st. A judgment recovered by James P. Wilkinson, on the 21st of June, 1843, for the sum of five hundred and seventy-five dollars, with interest, at the rate of six per cent. per annum, from the 20th day of November, 1840, until payment, and costs expended to the amount of eight $\frac{00}{100}$ dollars; all of which will more fully appear by the duly certified transcript hereto annexed for reference, marked D.

2d. A judgment recovered by James P. Wilkinson, on the 21st day of June, 1843, in the circuit superior court of law and chancery, for the county of Henrico, and city of Richmond, in the State of Virginia, held for the trial of civil causes on that day, against said Allen and Johnson, executors aforesaid, for the sum of two hundred dollars, with interest thereon, at the rate of six per centum per annum, from the 19th day of August, 1842, until paid, and costs thereon expended to the amount of eight $\frac{00}{100}$ dollars; all of which will more fully appear by the duly certified transcript hereto annexed for reference, marked E.

3d. A judgment recovered by Bolling B. Danridge, on the 14th August, 1843, at the court-house in Henrico county, in the State of Virginia, on the day aforesaid, before the justice of peace of said county, against said Allen and Johnson, executors as aforesaid, for the sum of two hundred dollars, with interest, at the rate of six per centum per annum, from the 1st day of January, 1843, until paid, and nine $\frac{00}{100}$ dollars, costs of suit therein expended. The process of citation was served on the said Abner Robinson during his lifetime; but he, being then very ill, died before the said case could be tried, and the suit was revived and carried on, and judgment as aforesaid was obtained, against his said executors; all of which will more fully appear by the duly certified transcript hereto annexed for reference, and marked F.

The said last mentioned judgment recovered by the said Dandridge against the executors, was, on the 1st day of February, 1845, by the said Bolling B. Dandridge, regularly transferred and assigned to the said James P. Wilkinson, who thereby then and there became the

owner thereof; that all the said three last mentioned judgments were regularly recovered against the said Joseph Allen and William R. Johnson, in their capacity of testamentary executors of the said Abner Robinson, deceased, who, by his last will and testament, appointed four executors, two of them residing in Virginia, to wit, the said Allen and Johnson, and the other two residing in Louisiana, to wit, the defendant, Joseph W. Tucker and one Thomas Pugh; that the said Allen and Johnson qualified, as executors in Virginia, and administered on the property of the testator in that State; and the said Joseph W. Tucker, administered alone on the property of the testator in Louisiana; that at the time of the decease of the said Abner Robinson he left property in the State of Virginia, and a very large amount of property in Louisiana; that the said executors, Allen and Johnson, fully administered the property in Virginia, and there remains no property or funds in that State, or in the hands of the said Allen or Johnson, out of which payment can be obtained by petitioner for the amount due her, as evidenced by the afore described judgments; that there is a large amount of property in the hands of the said Joseph W. Tucker, which is amply sufficient to pay all the debts due by the deceased; which said property consists in plantations and negroes, cattle, horses, and lands, now unadministered and situated in the State of Louisiana, being in the possession of said J. W. Tucker, executor.

That all the four above described judgments were recovered in courts of competent jurisdiction, and have been presented to the said Tucker, executor as aforesaid, for recognition as just claims against the estate of the said Robinson, and for payment; both of which have been refused, although the said Tucker was amicably requested thereto.

That all the debts on the afore mentioned and described judgments were obtained, were good and subsisting debts, due by the said Abner Robinson during his lifetime, and by his estate and successor after his death, and were and are as follows, viz:

1st. One note for one thousand dollars, dated Richmond, December the 9th, 1839, and payable ninety days after date, to the order of Abner Robinson and Isham Puckett, made by Archer Cheatham, and endorsed by said Abner Robinson and Isham Puckett, in blank.

2d. A due bill, dated Richmond, November 20th, 1840, for five hundred and seventy-five dollars, signed by said Abner Robinson; by which he acknowledged to have borrowed, the day of the date thereof, of James P. Wilkinson, the said sum of money.

3d. A due bill, dated Richmond, August the 19th, 1842, for two hundred dollars, signed by said Abner Robinson, by which he acknowledged to have borrowed, the day of the date thereof, of James P. Wilkinson, the said sum of money.

4th. A debt due Bolling B. Dandridge, for wages as overseer on the farm of said Abner Robinson, called Calle's Hill, in the said State of Virginia, for the year 1842, for the sum of two hundred dollars; which agreement was evidenced by a written contract between the said Robin-

son and the said Dandridge; which said debt was duly transferred to the said James P. Wilkinson.

All of which said debts were contracted and the said obligations originated in the said State of Virginia.

That since the recovery of the said judgments, and the assignment by Bolling B. Dandridge to him, the said James P. Wilkinson has died, and constituted petitioner, by his last will and testament, his sole and universal legatee; which said will has been duly admitted to probate in the circuit superior court of law and chancery, held for Chesterfield county, at the court-house thereof, on the 31st October, 1845, in the said State of Virginia, and appointed administrator with the will annexed, of the estate of the said James P. Wilkinson; and that on the 14th day of May, 1847, petitioner was duly recognised as universal legatee and heir of said James P. Wilkinson, and fully put in possession of all the effects belonging thereto, situated or being in the State of Louisiana, by the judgment of the second district court of New Orleans, being the probate court for the city and parish of Orleans, in the State of Louisiana.

That since the death of the said James P. Wilkinson, petitioner has been married to Nathaniel B. Hill, whose name she now bears, and under whose authority she acts in this case.

Wherefore the petitioner prays, that the said Joseph W. Tucker be cited as executor of the said Abner Robinson, deceased, and condemned to pay petitioner out of the funds belonging to the succession of the said Abner Robinson the sum of two thousand and fourteen $\frac{14}{100}$ dollars and interest as aforesaid, and costs of court, and costs of protest, and costs of suit; and for general relief, &c.

ROBERT MOTT,
Attorney for Mrs. Hill.

And afterwards, to wit, on the 28th day of June, A. D. 1848, judgment by default was rendered and entered on the minutes, as follows:

Wednesday, June 28th, 1848.

Court met pursuant to adjournment; present, the honorable Theodore H. McCaleb, judge, &c.

Mrs. Catherine Hill
vs. } 1683.
Joseph W. Tucker, ex'r, &c.

On motion of Robert Mott, esq., of counsel for the plaintiff, and it appearing to the satisfaction of the court, that the defendant has been duly cited, by accepting service of the petition and waiving citation; and the said defendant failing to appear and plead, it is, therefore, ordered, adjudged, and decreed, that a judgment by default be entered against defendant.

And afterwards, to wit, on the 14th day of November, 1848, the

defendant, J. W. Tucker, ex'r, &c., by his attorneys, Janin and Taylor, filed herein the following answer:

CATHARINE HILL
vs.
JOSEPH W. TUCKER, ex'r of Abner Robinson, dec'd.

UNITED STATES OF AMERICA,
5th circuit court, district of Louisiana.

To the honorable the circuit court of the United States for the fifth circuit, sitting in and for the district of Louisiana:

The answer of Joseph W. Tucker, residing in the parish of Lafourche Interior, State of Louisiana, executor of the last will and testament of Abner Robinson, deceased, respectfully represents: That he denies all and singular the allegations in plaintiff's petition contained, with the exception of what may be hereinafter specially admitted. Your respondent further answering says, that the judgment set forth in plaintiff's petition was rendered in the State of Virginia, in a proceeding to which respondent was not a party, and that the same is without force or effect as to him, in his capacity of executor, and that the same is not in manner binding on the succession of the said Abner Robinson, existing in the State of Louisiana. Your respondent further represents that, on one of the obligations set forth in plaintiff's petition, to wit, that alleged to have been made by Archer Cheatham, for one thousand dollars, dated December 9, 1839, the said Abner Robinson, if he endorsed the same at all, of which respondent has no knowledge, and of which he requires strict proof, was joint endorser with one Isham Puckett, and was in law bound for one-half only of the sum specified therein, and no more. Your respondent further represents, that no action can be now maintained on the notes or obligations, in which the judgments set forth in plaintiff's petition were rendered, the same being barred by the prescription of five years. Your respondent further represents, that the said Abner Robinson, at his death, left a considerable amount of property in the State of Virginia; and that, in the premises, plaintiff having, as she alleges, already obtained a judgment against his succession in Virginia, she, the said plaintiff, is without any right to enforce the payment of any claim she may have against the succession of said Robinson in the State of Louisiana, until the said property, left by him in the State of Virginia, has been fully administered, which respondent now avers it not yet to have been.

Wherefore respondent prays, that plaintiff's claim may be rejected, and he hence dismissed with his costs.

Respondent further prays for all and general the relief he may be entitled to in law, in equity, or that the nature of the case may require.

JANIN & TAYLOR,
Attorneys for respondents.

And afterwards, to wit, on the 14th day of May, A. D. 1849, the following entry was made on the minutes, viz:

Mrs. Hill
vs. } 1683.
J. W. Tucker et al.

This cause, having been regularly assigned for this day, was called up for trial; Thomas J. Durant, esq., appearing for plaintiff, and Miles Taylor, esq., for defendants; when, after the introduction of evidence and argument of counsel, the same was submitted to the court and taken under advisement.

And on the 14th day of May, 1849, defendant, by his attorney, filed herein the following

Bill of exception.

Mrs. Catharine Hill
vs.
Joseph W. Tucker, executor of A. Robinson.

United States circuit court, New Orleans.

Be it remembered, that on the trial of this cause the plaintiff offered the deposition of James Lyons, Bacon Tait, Abner Michaels, Robert G. Echoll, and of Bolling Dandridge, taken de bene esse in the State of Virginia, before P. V. Daniel, commissioner, on the 16th of December, 1848, and on the 6th day of February, 1849, respectively, (a copy of which is hereto annexed,) in evidence; and that the defendant, by his counsel, objected to the introduction of the same on the ground that no order authorizing the taking of depositions de bene esse had been obtained from this court, and that the defendant was without any information of the intention of plaintiff to take testimony in the State of Virginia, by which he was precluded from the possibility of cross examining the witnesses, or taking other testimony to rebut his statements; that the court was of opinion the said deposition ought to be admitted, and overruled the objection, and received the same. Whereupon defendant excepted to the opinion of the court overruling said objection, and tendered this his bill of exception, after having submitted the same to the adverse counsel, and prayed that it might be signed in open court, which is accordingly done.

THEO. H. McCALEB, [seal.]
U. S. Judge.

Depositions annexed to the above bill of exceptions.

United States of America,
Eastern district of Virginia,
City of Richmond, ss:

Be it remembered, that, on this sixteenth day of December, in the year of our Lord one thousand eight hundred and forty-eight before

me, Peter V. Daniel, a commissioner duly appointed on the eleventh day of May, in the year 1844, by the circuit court of the United States, in and for the eastern district of Virginia, under and by virtue of the acts of Congress, entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, passed February 20th, 1812; and the act of Congress entitled an act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, passed March 1st, 1817; and the act entitled an act to establish the judicial courts of the United States, passed September 24th, 1789; personally appeared James Lyons, Bacon Tait, Albert Michaels, Robert G. Cahill, Micajah Clark, persons of sound mind and lawful age, and witnesses for the plaintiff in a civil suit now depending in the circuit court of the United States, in and for the eastern district of Louisiana, wherein Catharine Hill is plaintiff, and Joseph W. Tucker, executor of Abner Robinson, is defendant.

And the said James Lyons, being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did, in answer to the interrogatories propounded to him, depose and say:

Question first. Look at the two obligations here shown to you respectively, marked "A and B," one a note of Abner Robinson, dated November 20th, 1840, to James P. Wilkinson for five hundred and seventy-five dollars; and the second a single bill of Abner Robinson for two hundred dollars, to James P. Wilkinson, dated August 19th, 1842, and say whether the signatures of Abner Robinson thereto be genuine.

Answer. I knew Mr. Abner Robinson well for many years before his death, and was generally his counsel; I am therefore well acquainted with his writing and signature; the signature to these two notes is genuine, and in his own handwriting.

Question second. Please state at what time these notes or obligations became due; whether demand or protest was necessary, and what is the rate of interest and time from which it runs in Virginia.

Answer. According to the laws of Virginia, as expounded by numerous decisions of her supreme court, an obligation which does not name a specified period for payment is due at *at* its date, and interest accrues thereon from the date of the obligation, though demand or protest is not made, neither of which is necessary before suit. The rate of interest under the Virginia statute upon contracts made in Virginia, is six per centum; judgments carry the same interest.

Question third. Where did the parties to these notes or obligations reside at the time that they were executed?

Answer. Both parties resided in the State of Virginia, and Abner Robinson not very long before his death, to wit, in the year 1838, stated to me that he considered Virginia as his home, and made affidavit to an answer in chancery, which as his counsel I drew for him, in which it was stated, as a necessary part of his defence, that Richmond

was his domicil, and his residence in Louisiana only temporary; and further this deponent saith not.

(Signed) JAMES LYONS.

And the said Bacon Tait, being by me first carefully examined, and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, did, in answer to the interrogatories propounded to him, depose and say:

Question first. Look at the obligations here exhibited to you respectively, marked "A" and "B," one a note of Abner Robinson, dated November 20th, 1840, to James P. Wilkinson, for five hundred and seventy-five dollars; and the second a single bill of Abner Robinson, dated August the 19th, 1842, to James P. Wilkinson, for two hundred dollars, and say whether the signatures of Abner Robinson thereto be genuine.

Answer. I knew Mr. Abner Robinson for a long time, and was very familiar with his handwriting, and am very sure that the signatures to the two papers exhibited to me, respectively marked "A and B," as described in the question, are his signatures, and are in his own proper handwriting; and further this deponent saith not.

(Signed) BACON TAIT.

And the said Albert Michaels, being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did, in answer to the interrogatories propounded to him, depose and say:

Question first. Are you or not the keeper of the Shockoe Hill burial ground in this city; if so, please state whether you knew James P. Wilkinson, formerly of this city, and whether he is now dead, and where he was buried, if dead.

Answer. I am the keeper of the Shockoe Hill burying ground in this city, and was well acquainted with James P. Wilkinson, who formerly resided here, and verily believe that he is dead, though I did not see him die; and by the records of the graveyard above mentioned, I ascertain that James P. Wilkinson's body was buried there on the first day of July, 1845; and further this deponent saith not.

(Signed) ALBERT MICHAELS.

And the said Robert G. Cahill, being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did, in answer to the interrogatories propounded to him, depose and say:

Question first. Will you be pleased to state whether you are or not a resident practising physician in this city, and how long you have been here in that capacity; and whether during your practice here you were acquainted with James P. Wilkinson; and state whether you attended him during his illness; and whether he is dead or alive at this time; and if dead, say at what time he died.

Answer. I am, and have been, practising medicine in this city regularly since the year 1836; I was acquainted with James P. Wilkinson, and attended him in his illness; he is now dead, having died on the 30th of June, 1845; and further this deponent saith not.

(Signed) ROBERT G. CAHILL.

And the said Micajah Clark, being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did, in answer to the interrogatories propounded to him, depose and say:

Question first. Please state whether you have been for many years a practising physician in this city; and if so, say whether you knew James P. Wilkinson; whether he be now dead; and if not living, state at what time did he die.

Answer. I have been a practising physician here for many years, and knew James P. Wilkinson well, and attended him and his family frequently, and attended him during his last illness in the month of June, 1845, on the thirtieth day of which month he died. And further this deponent saith not.

(Signed) MICAJAH CLARK.

Obligation marked A.

$575. RICHMOND, *Nov. 20th*, 1840.

Due James P. Wilkinson, for value received, (viz., cash loaned,) five hundred and seventy-five dollars. Given under my hand this day and date as above written.

ABNER ROBINSON.

Endorsement on the above note.

I hereby certify, that this is the paper shown to the witnesses, James Lyons and Bacon Tait, and testified to in the accompanying depositions by them, marked A.

P. V. DANIEL, JR., *Commissioner U. S. court, for eastern dist. of Virginia.*

Obligation marked B.

$200. RICHMOND, *August 19th*, 1842.

Due James P. Wilkinson two hundred dollars, for money borrowed this day, as per check on the Farmer's Bank of Virginia of the same date, &c. Given under my hand and seal as above.

ABNER ROBINSON. [SEAL.]

Endorsement on the above obligation, marked B.

I hereby certify this to be the paper shown to the witnesses, James

Lyons and Bacon Tait, and by them testified to as being marked B, in the accompanying depositions.

P. V. DANIEL, Jr.,
Com. of the circuit court of the U. S.,
for the eastern dist. of Virginia.

UNITED STATES OF AMERICA,
Fourth judicial circuit and eastern district of Virginia,
City of Richmond, ss:

I, Peter V. Daniel, jr., a commissioner duly appointed on the eleventh day of May, in the year 1844, by the circuit court of the United States, for the fourth circuit and eastern district of Virginia, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing depositions is, that the witnesses live in the State of Virginia, more than one hundred miles from the city of New Orleans, in the State of Louisiana, the place of trial of the cause for and in which said depositions were taken and were deemed necessary.

I further certify, that no notice of the time and place of taking the said depositions was made out and served on the said Joseph W. Tucker, executor of Abner Robinson, deceased, the defendant or adverse party in said cause, his agent or attorney, because neither the said defendant, or adverse party, nor any attorney or agent of such defendant or adverse party, was, at the time of taking said deposition, within (100) one hundred miles of the said city of Richmond, the place of taking the said depositions, to the knowledge of the undersigned.

I further certify that, on this sixteenth day of December, A. D. 1848, I was attended by the said witnesses, who each and all being of sound mind and lawful age, were by me first carefully examined, and cautioned, and sworn to testify the whole truth, and their depositions having been by me reduced to writing and carefully read over to the said witnesses, they, the said witnesses, after hearing the said depositions so carefully read over to them, severally subscribed their said depositions in my presence.

I have retained the said depositions in my possession for the purpose of sealing up and directing the same, in my own handwriting, and forwarding them to the court for which the said depositions were taken.

I further certify, that I am not of counsel or attorney to either of the parties to the said suit in said depositions and caption named, nor in any way interested in the said civil cause or in the event thereof.

In testimony whereof I have hereunto set my hand and seal this sixteenth day of December, A. D. 1848.

P. V. DANIEL, Jr., *U. S. Commissioner, circuit and district court United States, for the eastern district of Virginia.*

Endorsed as follows:
Filed 14th May, 1849.

J. W. GURLEY, *Clerk.*

No. 10. Offered and read by plaintiff 21st May, 1850.

J. W. GURLEY, *Clerk.*

Judgment.

And afterwards, to wit, on the 13th day of November, A. D. 1849, the following entry was made on the minutes:

MRS. CATHARINE HILL
vs.
JOSEPH W. TUCKER, executor of Abner Robinson, deceased. } 1683.

The court having maturely considered the case submitted, and the proofs offered by the plaintiff establishing her demand, it is ordered, adjudged, and decreed, that Mrs. Catharine Hill, wife of N. B. Hill, recover of the defendant, Joseph W. Tucker, executor of the estate of Abner Robinson, deceased, the sum of two thousand and fourteen $\frac{14}{100}$ dollars, with interest at the rate of six per centum per annum, until paid, as follows, on one thousand dollars from 10th of March, 1840; on two hundred dollars from 1st January, 1843; on two hundred dollars from the 19th of August, 1842; and on five hundred and seventy-five dollars from 20th of February, 1840; and costs of suit to be taxed.

The said sums to be paid out of the estate of the said Abner Robinson, deceased, in the hands of said executor.

Motion for new trial.

And afterwards, to wit, on the 15th day of November, 1849, a motion for a new trial was made and entered on the minutes, as follows:

MRS. HILL
vs.
J. W. TUCKER, executor. } 1683.

On motion of Janin & Taylor, of counsel for the defendant, it is ordered that the plaintiff shew cause on Saturday, the 1st December next, at 12 o'clock, m., why a new trial should not be granted in this case, on the ground that the judgment rendered therein is contrary to law and evidence.

Rule for new trial submitted.

And afterwards, to wit, on the first day of December, A. D. 1849, the following entry was made on the minutes:

MRS. HILL
vs.
J. W. TUCKER. } 1683.

The rule taken in this case to shew cause why a new trial should not be granted, being returnable this day, was called up for hearing, when after argument of counsel, the same was submitted to the court and taken under advisement.

New trial granted.

And afterwards, to wit, on the 31st day of December, A. D. 1849, the following order granting a new trial was made by the court, and entered on the minutes:

MRS. HILL
vs.
J. W. TUCKER, executor, &c. } 1683.

The rule taken by the defendant herein on the plaintiff to shew cause why a new trial should not be granted on the grounds set forth, having been argued and submitted to the court at a former day, and the same having been maturely considered, it is now ordered that the said rule be made absolute, and that a new trial be granted.

Joinder of N. B. Hill.

And afterwards, on the 15th day of February, A. D. 1850, a joinder of N. B. Hill was filed herein, in the words and figures following, to wit:

MRS. HILL
vs.
J. W. TUCKER, executor. } No. 1683.

In the circuit court of the United States, for the 5th circuit and eastern district of Louisiana.

Now comes Nathaniel B. Hill, a citizen of the State of Virginia, residing in Richmond, in said State, and joins his wife in the said suit, and authorizes her [to] prosecute the same, and prays for judgment in favor of his said wife for the whole amount claimed, and also in favor of this appearer, and for general relief, &c.

N. B. HILL.

Cause set for trial.

And afterwards, to wit, on the 23d March, A. D. 1850, an order of court was made and entered of record on the minutes, as follows:

MRS. C. HILL
vs.
J. W. TUCKER, executor, &c. } 1683.

On motion of Robert Mott, esq., attorney for plaintiff, it is ordered that this cause be assigned for trial for Thursday, the fourth of April, and that defendant be notified thereof.

On the 3d day of April, 1850, Joseph W. Tucker, the defendant, by his counsel, Janin & Taylor, esq., filed a supplemental answer or plea of prescription, as follows:

Supplemental answer.

United States circuit court, eastern district of Louisiana.

CATHARINE HILL
vs.
J. W. TUCKER, executor. } No.

To the honorable the circuit court of the United States, sitting in and for the eastern district of Louisiana, the supplemental answer of Joseph W. Tucker, testamentary executor of Abner Robinson, deceased, by way of peremptory exceptions founded in law to the petition against him filed in the above entitled case, respectfully represents:

That Abner Robinson, defendant's testator, departed this life on the day of , in the State of Virginia, of which he was a citizen, and in which he was domiciliated; that Joseph Allen and William R. Johnson were duly qualified to act as executors of the last will and testament of the said Abner Robinson, on the 21st day of December, 1842, and letters testamentary were issued to them by the circuit superior court of law and chancery for the county of Henrico, and city of Richmond, on the said 21st day of December, 1842, or thereabouts; that more than five years elapsed after the qualification of the said executors, and before the institution of this suit; that the obligation on which the judgment in the circuit superior court of laws and chancery for the county of Henrico, in the State of Virginia, against the said Archer Cheatham, Abner Robinson, and Isham Puckett, was rendered on the 6th of June, 1840, in favor of James P. Wilkinson, was executed in the State of Virginia; that the said Wilkinson and Robinson were then citizens of Virginia, and domiciliated therein at the time of the execution of the said obligation and of the rendition of said judgment, and continued to be so up to the time of their respective deaths; and that the plaintiff was then, and still is, a citizen of and domiciliated in the said State of Virginia, and that the plaintiff's right of action on the said judgment was barred by the statute of limitations of the State of Virginia by the expiration of the said five years, and that the same is deemed to have been paid and discharged; wherefore defendant prays that the plaintiff's claims may be rejected at his costs.

JANIN & TAYLOR,
Attorneys for defendant.

Order of continuance.

And afterwards, to wit, on the 5th day of April, A. D. 1850, the following order of continuance was made and entered of record on the minutes:

C. HILL
vs.
J. W. TUCKER, executor.

On motion of Miles Taylor, esqr., and with consent of the plaintiff's counsel, it is ordered, that this cause be continued to the next term.

Submission.

And on the 21st of May, A. D. 1850, the following entry was made of record on the minutes:

MRS. CATHARINE HILL
vs.
J. W. TUCKER, executor, &c. } 1683.

This cause having been assigned for this day, came on to be heard, and, after argument of counsel, was submitted to the court and taken under advisement.

Bill of exceptions.

And afterwards, to wit, on the 19th day of June, A. D. 1850, the plaintiff, by her counsel, filed herein a bill of exceptions, as follows:

CATHARINE HILL, aided by her husband,
Nathaniel B. Hill,
vs.
JOSEPH W. TUCKER, executor of Robinson.

United States circuit court, eastern district of Louisiana.

Bill of exceptions.

Memo.—This cause was tried before the judge, who was to find upon the facts as a jury should do, and to decide the law as he would have to do in instructing a jury if the facts had been submitted to a jury; and upon the trial all the evidence offered was in writing; it was offered in the order contained in the statement of the evidence made out by the clerk during the trial and filed; that statement of the evidence and the written evidence therein referred to was all the evidence.

Memorandum of evidence offered and read on trial, and filed 21st May, 1850.

J. W. GURLEY, *Clerk.*

MRS. CATHARINE HILL
vs.
J. W. TUCKER, executor, &c. } 1683.

App.

United States circuit court, on trial 21st May, 1850.

Memorandum of evidence.

Evidence offered and read by plaintiff:

1. Record of Wilkinson vs. Cheatham et als., from Virginia, marked "A."
2. Certificate of bankruptcy of Cheatham, marked "B."
3. Discharge of Puckett in bankruptcy, dated 12th January, 1843. (Look for this in record 1682.)
4. Exhibit "D" objected to by defendant; exception reserved.
5. Exhibit "E" objected to, and exception reserved.
6. Exhibit "F" objected to, and exception reserved.
7. Will of Abner Robinson.
8. Paper marked succession of James Wilkinson, No. 5, (in record of case No. 1682.)
9. Authorization of joinder of N. B. Hill.
10. Depositions of James Lyons and documents annexed, (filed 14th May, 1849,) and Bacon Tate and Albert Michaels and Robert G. Cabell and Micajah Clark.
11. Deposition of Dandreth, (filed 14th May, 1849,) and documents annexed.

Note.—Plaintiff here closes his evidence, and the defendant offers none.

J. W. GURLEY, *Clerk.*

Evidence.—Record marked exhibit "A."

Filed 29th February, 1848, and offered and read by plaintiff 21st May, 1850.

VIRGINIA.

Pleas before the circuit superior court of law and chancery, for the county of Henrico and city of Richmond, held for the trial of civil causes on Saturday the sixth day of June, one thousand eight hundred and forty.

Record from circuit superior court of Henrico county, Virginia.

Be it remembered, that heretofore, to wit, on the 13th day of March, in the year aforesaid, came James P. Wilkinson, by his attorney, and sued out of the office of the said court a writ of capias ad respondendum against Archer Cheatham, Abner Robinson, and Isham Puckett; which writ, with the endorsements and return thereon made, is in the words and figures following, to wit:

The Commonwealth of Virginia, to the sheriff of Henrico county, greeting:

We command you, that you take Archer Cheatham, Abner Robinson, and Isham Puckett, if they be found within your bailiwick, and them

safely keep, so that you have their bodies at the clerk's office of our circuit superior court of law and chancery, for the county of Henrico, and city of Richmond, at the rules to be holden for the said court on the first Monday in the next month (April) to answer James P. Wilkinson of a plea of debt for one thousand dollars; also two dollars and ninety-five cents, charges of protest, damages for $20; and have then and there this writ.

Witness John Robinson, clerk of our said court, at Richmond, the 13th day of March, 1840, and in the 64th year of the commonwealth.

J. ROBINSON.

(Endorsements.) "An action of debt on a protested promissory negotiable note, drawn by the defendant, Cheatham, and endorsed by the other defendants. Bail is required of Cheatham only.

LYONS, *P. Q.*

"The sheriff will dispense with the bail in the within case, and not hold Archibald Cheatham in his custody. March 14th, 1840."

JAMES P. WILKINSON.

(Return.) "Executed on Isham Puckett 13th March, on Abner Robinson 14th March, and on Archer Cheatham the 16th March, 1840."

THOMAS B. CARTER, *D. S.*,
For JOHN SHEPHERD, *S. H. C.*

And at another day, to wit, at rules held in the clerk's office of the said court on the first Monday in April, 1840, being the 6th day of the month, came the plaintiff aforesaid, by his attorney, and filed his declaration against the defendants; which declaration is in these words, to wit:

In the circuit superior court of law and chancery, for the county of Henrico and city of Richmond.

VIRGINIA, *county of Henrico and city of Richmond.*

James P. Wilkinson, endorsee of Abner Robinson and Isham Puckett, plaintiff, complains of Archer Cheatham, drawer, and Abner Robinson and Isham Puckett, endorsers, of a protested negotiable note, defendants in custody, &c., of a plea, that the said defendants render unto him, the said plaintiff, one thousand dollars, with interest thereon to be computed after the rate of six per centum per annum, from the 11th day of March, 1840, and $2 95, the charges of protest, which to the plaintiff said defendants owe, and from him unjustly detain; for this, that the said Archer Cheatham, on the 9th day of December, 1839, in the city aforesaid, and within the jurisdiction of this court, made his certain note in writing, negotiable and payable at the Bank of Virginia, with his proper name by him thereto subscribed, the date whereof is the day and year last mentioned, by which he promised to pay, ninety days after date to the said Abner Robinson and Isham Puckett, or order,

the said sum of $1,000, for value received; and the said Abner Robinson and Isham Puckett afterwards, to wit, on the same day and year aforesaid, in the city and within the jurisdiction aforesaid, did for value received endorse the said note to the said plaintiff, by writing their names on the back of said note, thereby ordering and directing the payment of the said sum of money in the said note mentioned to be made to the said plaintiff, the said note being then unpaid; of all which the said Archer Cheatham then and there had due notice; and the said plaintiff avers that the said note was afterwards, viz., on the 11th day of March, 1840, in the city aforesaid, and within the jurisdiction of this court, duly presented to the said bank and payment thereof was demanded at the said bank, the same then having become due and payable according to the tenor and effect thereof, and the usage and custom of merchants in such cases prevailing; but the payment of the said note was refused at the said bank, and the said Archer Cheatham was not there to pay the same; by reason whereof the said note afterwards, viz., on the day and year last mentioned, was duly protested for non-payment, the charges of which protest amounted to $2 95, as by an instrument of protest, under the seal of Archibald Blair, notary public, will appear, which said instrument of protest is now shown to the court; all of which the said defendants, and all the endorsers of said note, on the day and year last mentioned, within the city and jurisdiction aforesaid, had due notice, whereby and by virtue of the acts of assembly in such case made and provided, an action hath accrued to the said plaintiff to demand and have of the said defendants the said sum of $1,000, with interest as aforesaid, and $2 95, the charges of protest; and for this, that the said Archer Cheatham, on the 9th day of November, 1839, in the city aforesaid, and within the jurisdiction of this court, made his certain note in writing, negotiable and payable at the Bank of Virginia, the date whereof is the day and year last mentioned, by which he promised to pay, ninety days after date, to the said Abner Robinson and Isham Puckett, or order, the said sum of $1,000, for value received; and the said Abner Robinson and Isham Puckett, afterwards, to wit, on the same day and year aforesaid, in the city, and within the jurisdiction aforesaid, did, for value received, endorse the said note to the said plaintiff by writing their names on the back of said note, thereby ordering and directing the payment of the said sum of money in the said note mentioned to be made to the said plaintiffs the said note being then unpaid, of all which the said Archer Cheatham then and there had due notice; and the said plaintiff avers, that the said note was afterwards, (to wit,) viz., on the 11th day of March, 1840, in the city aforesaid, and within the jurisdiction of this court, duly presented to the said bank, and payment thereof was demanded at the said bank, the same having then become due and payable, according to the tenor and effect thereof, and the usage and custom of merchants in such cases prevailing; but the payment of the said note was refused at the said bank, and the said Ar-

cher Cheatham was not there to pay the same; by reason whereof the said note afterwards, viz., on the day and year last mentioned, was duly protested for non-payment, the charges of which protest amounted to $2 95, as by an instrument of protest under the seal of Archibald Blair, notary public, will appear, which said instrument of protest is now shown to the court; of all which the said defendants, and all of the endorsers of said note, on the day and year last mentioned, within the city and jurisdiction aforesaid, had due notice; whereby, and by virtue of the acts of assembly in such case made and provided, an action hath accrued to the said plaintiff to demand and have of the said defendants the said sum of $1,000, with interest as aforesaid, and $2 95, the charges of protest. Yet the said defendants, although often thereto requested, has not, nor has either of them, paid the said plaintiff the said sum of $1,000, with interest as aforesaid, and $2 95, the charges of protest, or any part thereof, but the same to pay they, and each of them, have hitherto wholly refused, and still refuse, to the damage of the plaintiff $100, and therefore he sues.

LYONS, *P. Q.*

Whereupon, the defendants being arrested, and not appearing, on the motion of the plaintiff, by his attorney, it was ordered, that judgment be entered for the said plaintiff against the defendants for what should appear to be justly due to the plaintiff, and also for such damages as the plaintiff hath sustained by occasion of the detention of his debt, unless the defendant should appear at the then next rules, and answer the plaintiff's action.

At which day, to wit, at rules held in the clerk's office of the said court, on the first Monday in May, 1840, being the 4th day of the month, the defendants still failing to appear, on the motion of the plaintiff, by his attorney, it was ordered, that the conditional judgment entered in this cause at the last rules be confirmed, and that the plaintiff's damages be ascertained by a jury at the then next term.

And now, at this day, to wit, at a circuit superior court of law and chancery for the said county of Henrico and city of Richmond, held for the trial of civil causes, on the day and in the year first herein mentioned, to wit, Saturday, the 6th day of June, 1840, came the plaintiff aforesaid, by his attorney, and a jury, to wit, John D. Graff, Isaac O. Austin, John B. Davenport, Charles R. Allen, Napoleon B. Binford, Edwin A. Smith, Robert H. Murray, Thomas B. Jackson, James L. Pendleton, George W. Atkinson, William J. Smith, and Jesse Walton, being sworn diligently to inquire of damages in this suit, upon their oath returned a verdict in these words, "we, the jury, find for the plaintiff the debt, interest, and charges of protest, in the declaration demanded." Therefore, it is considered by the court, that the plaintiff recover against the defendants one thousand dollars, with interest thereon, to be computed after the rate of six per centum per annum, from the eleventh day of March, 1840, till payment, and two dollars and ninety-five cents, the debt, interest, and charges of protest

aforesaid, and his costs by him about his suit in this behalf expended; and the said defendant in mercy, &c. Plaintiff's costs $9 56.

The following are copies of the note and endorsements thereon, and protest thereof, upon which this action was founded:

"$1,000. RICHMOND, *December 9th*, 1839.

Ninety days after date I promise to pay, to the order of Abner Robinson and Isham Puckett, one thousand dollars, negotiable and payable at the Bank of Virginia, for value received.

ARCHER CHEATHAM."

Endorsements: Abner Robinson, Isham Puckett, James P. Wilkinson.

"$1,000. RICHMOND, *December 9th*, 1839.

Ninety days after date I promise to pay, to the order of Abner Robinson and Isham Puckett, one thousand dollars, negotiable and payable at the Bank of Virginia, for value received.

ARCHER CHEATHAM.

Endorsed: Abner Robinson, Isham Puckett, James P. Wilkinson.

VIRGINIA,

City of Richmond, to wit:

Be it known to all whom it may concern, that on this eleventh day of March, in the year of our Lord 1840, I, Archibald Blair, a notary public in and for the city of Richmond, duly commissioned and qualified, at the request of the President and Directors of the Farmer's Bank of Virginia, holders of the original note, a true copy whereof is above written, demanded payment at the Bank of Virginia, which being refused, I thereupon notified the payer and endorsers of the non-payment and protest of said note.

Now, therefore, I, the said notary, at the request aforesaid, have protested, and do hereby most solemnly protest, as well against the said Archer Cheatham as against the endorsers, Abner Robinson and Isham Puckett, and all others whom it doth or may concern, for all loss, damages, principal, interest, costs, and charges, sustained or to be sustained, by reason of the non-payment aforesaid.

In testimony whereof I have hereunto subscribed my name and affixed my notarial seal, at the city of Richmond aforesaid, the day and year aforesaid. [L. S.]

Protest, 87; recording, 83; tax, 1 25—$2 95.

ARCHIBALD BLAIR, *Not. Pub.*

Upon the judgment contained in the aforegoing record but one execution was issued, which, with the endorsements and return thereon made, is as follows, viz:

The Commonwealth of Virginia, to the sheriff of Henrico county, greeting:

We command you that, of the goods and chattels of Archer Cheatham, drawer, and Abner Robinson and Isham Puckett, endorsers, of a protested negotiable note, in your bailiwick, you cause to be made one thousand dollars, with interest thereon, to be computed after the rate of six per centum per annum, from the eleventh day of March, 1840, till payment, and two dollars 95 cents, which James P. Wilkinson, endorsee of Abner Robinson and Isham Puckett, late in our circuit superior court of law and chancery, for the county of Henrico, and city of Richmond, hath recovered against the said Cheatham, Robinson, and Puckett, as well for a certain debt as for interest thereon, and charges of protest; also nine dollars 56 cents, which to the said Wilkinson, endorsee as aforesaid, in the same court were adjudged for his costs by him about his suit in that behalf expended. Whereof the said Cheatham, Robinson, and Puckett are convict, as appears to us of record; and how you shall execute this writ, make known at the rules to be holden in the clerk's office of our said circuit superior court, on the first Monday in October next, and have then there this writ.

Witness John Robinson, clerk of our said court, at Richmond, the 30th day of July, 1840, (1840,) in the 65th year of our foundation.

J. ROBINSON.

(Endorsements:) To hand August 1st, 1840. August the 14th, 1840, the sheriff of Henrico county will suspend the collection of the within execution, until further orders.

JAMES P. WILKINSON.

(Return:) The within execution is suspended; see endorsement hereon.

THOMAS B. CARTER, *D. S.*
For JOHN SHEPPARD, *S. H. C.*

STATE OF VIRGINIA,
County of Henrico, and city of Richmond, to wit:

I, John Robinson, clerk of the circuit superior court of law and chancery, for the said county of Henrico, and city of Richmond, on the common law side, in the said State of Virginia, do hereby certify, that the aforegoing is a true transcript from the record and judicial proceedings in a certain action of debt, lately depending in the said circuit court last above mentioned, between James P. Wilkinson, endorsee of Abner Robinson and Isham Pucket, plaintiffs, and Archer Cheatham, drawer, and Abner Robinson and Isham Puckett, endorsers, of a protested negotiable note, defendants, with all things touching the same, as fully and wholly as they now exist among the records of the said circuit court last above mentioned.

In testimony whereof I hereto set my hand and annex the seal of the said circuit superior court of law and chancery, for the

[SEAL.] said county of Henrico, and city of Richmond, on the common law side, this nineteenth day of November, one thousand eight hundred and forty-seven.

J. ROBINSON.

STATE OF VIRGINIA,
County of Henrico, and city of Richmond, to wit:

I, Philip N. Nicholas, only judge of the circuit superior court of law and chancery, for the said county of Henrico, and city of Richmond, on the common law side, in Virginia aforesaid, do certify, that John Robinson, who hath given the preceding certificate, is clerk of the said court, and that his said attestation is in due form.

Given under my hand, this 24th day of November, 1847.

P. N. NICHOLAS.

Certificate of bankruptcy of Cheatham, marked exhibit B, offered by plaintiff, and read 21st May, 1850:

Certificate of discharge.

THE UNITED STATES OF AMERICA,
District of Columbia, county of Washington, to wit:

Circuit court of the United States, for the District of Columbia, sitting in bankruptcy, in and for the county of Washington.

In the matter of Archer Cheatham, a bankrupt. Whereas it appears, to the satisfaction of this court, that Archer Cheatham, of Washington county, D. C., a bankrupt, has bona fide surrendered all his property, and rights of property, for the benefit of his creditors, with the exception of certain articles which he has been permitted to retain under the third section of the act of Congress of the 19th of August, 1841, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" and whereas the said Archer Cheatham hath fully complied with and obeyed all the orders and directions which have from time to time been passed by this court, and has otherwise conformed to all the other requisitions of the said act, it is, this twenty-ninth day of August, 1842, ordered and decreed by the court, that the said Archer Cheatham is entitled to a full discharge from all his debts, contracts, and other engagements proveable under the said act, and the same is hereby decreed and allowed; and it is further ordered that a certificate thereof be, and the same is hereby, granted to him.

In witness whereof I, William Brent, clerk of the said court, sitting in bankruptcy in the county of Washington, have hereunto [SEAL.] set my hand and the seal of the said court, this twentieth day of November, 1847.

W. BRENT, *Clerk*.

DISTRICT OF COLUMBIA, *to wit:*

I, William Cranch, chief judge of the circuit court of the District

of Columbia, sitting in bankruptcy, certify, that the above attestation of William Brent, clerk of the circuit court of the District of Columbia, sitting in bankruptcy, in and for the county of Washington, is in due form.

Given under my hand, this 20th day of November, 1847.

W. CRANCH.

Discharge of Puckett in bankruptcy, offered in evidence on the trial, and filed on February, 18*th February*, 1851.

In the United States court, for the eastern district of Virginia, January 12th, 1843.

It appearing to the satisfaction of the court that Isham Puckett, who has heretofore been declared and decreed a bankrupt by this court, having filed a petition praying for a discharge from all his debts and liabilities; and it further appearing that the said Isham Puckett has fully and in every respect complied with all the requirements of the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" and no objection being made, or cause shown, by any of the creditors of the said Isham Puckett, why he should not be released and discharged from all his said debts and liabilities, it is adjudged, ordered, and decreed, that the said Isham Puckett be, and he is hereby, discharged from all his said debts and liabilities; and that a certificate of such discharge be granted to the said Isham Puckett under the seal of this court.

[SEAL.] In testimony whereof I have hereunto set my hand, as clerk of the said court, and hereto affix the seal of the said court.

P. MAYO, *Clerk.*

EASTERN DISTRICT OF LOUISIANA, *to wit:*

I, James D. Halyburton, judge of the United States' court for the eastern district of Virginia, hereby certify, that P. Mayo, who hath given the preceding certificate, is clerk of said court, and that his said attestation is in due form.

Given under my hand this 10th February, 1851.

JAMES D. HALYBURTON.

No. 4. Exhibit "D," offered by plaintiff and read May 21st, 1850.

VIRGINIA.

Pleas before the circuit superior court of law and chancery, for the county of Henrico and city of Richmond, on the common law side, held for the trial of civil causes, on Wednesday, the twenty-first day of June, in the year one thousand eight hundred and forty-three:

Be it remembered, that heretofore, to wit, at rules, held in the clerk's office of the said circuit superior court, on the first Monday in February, in the aforesaid year 1843, it being the 6th day of the month, came

James P. Wilkinson, by his attorney, and filed his declaration against William R. Johnson and Joseph Allen, executors of the last will and testament of Abner Robinson, deceased, of a plea of debt; which declaration is in the words and figures following, to wit:

"FOURTH JUDICIAL DISTRICT,

21st circuit, Virginia, Henrico county, to wit:

James P. Wilkinson, plaintiff, complains of William R. Johnson and Joseph Allen, executors of the last will and testament of Abner Robinson, deceased, defendants, in custody, &c., of a plea that the said defendants render unto him the sum of five hundred and seventy-five dollars, which the said defendants from him unjustly detain; for this, that the said Abner Robinson, in his lifetime, at Richmond, in the county of Henrico aforesaid, and within the jurisdiction of this court, on the 20th day of November, in the year 1840, was indebted to the said plaintiff in the said sum of $575; and in consideration thereof then and there made his note in writing, with his name, by him thereto subscribed, by which he acknowledged himself to be indebted to the plaintiff in the said sum of $575, to be paid to the plaintiff when the defendant should be thereto required, and then there delivered the same to the plaintiff; and the plaintiff in fact says, that the said Abner Robinson, although often requested to pay the said sum of money to the plaintiff in his lifetime, hath not done so, but the same to pay hath hitherto wholly failed and refused; nor have his said executors, since his death, although often requested so to do, paid the same, or any part thereof, to the plaintiff, but have hitherto wholly failed and refused, and still do refuse, to the damage of the plaintiff of $20; and, therefore, he brings suit, &c.,

LYONS, *P. Q.*

Whereupon, the defendants being arrested and not appearing, on the motion of the plaintiff, by his attorney, it was ordered, that judgment be entered for the plaintiff against the said defendants, for the debt in the declaration mentioned, and the costs to be levied of the goods and chattels of the testator in the hands of the defendants to be administered, unless they should appear and plead to issue at the then next rules.

At which day, to wit, at rules, held in the clerk's office of the said circuit court, on the first Monday in March, in the aforesaid year, 1843, it being the sixth day of the month, the defendants still failing to appear and plead to issue, on the motion of the plaintiff, by his attorney, it was ordered, that the last order made against the defendants in this cause be confirmed. And at another day, to wit, at a circuit superior court of law and chancery, for the said county of Henrico, and city of Richmond, on the common law side, held for the trial of civil causes, on the third day of June, in the year last mentioned, came the parties aforesaid, by their attorneys, and the defendants pleaded non detinet, and put themselves upon the country, and the plaintiff likewise; whereupon it was ordered, that the judgment obtained in the office against the said defendants be set aside.

And now, at this day, to wit, at the same circuit superior court, continued and held for the trial of civil causes, on the day and in the year first herein mentioned, to wit, Wednesday, the 21st day of June, 1843, came the parties aforesaid, by their attorneys, and thereupon came a jury, to wit, Robert M. Nimmo, Albert G. Binford, James B. Ferguson, jr., George N. Harris, William J. Willis, John G. Coffin, Richard Rogers, Edward S. Hobbs, N. Burke, Nath'l C. Winston, A. H. Dabney, and John Saway, who, being elected, tried, and sworn the truth to speak upon the issue joined, upon their oath returned a verdict in the words and figures following, "we, the jury, find for the plaintiff the sum of five hundred and seventy-five dollars, with legal interest thereon from the 20th November, 1840, until paid." Therefore it is considered by the court that the plaintiff recover against the defendants the said sum of five hundred and seventy-five dollars, with interest thereon, to be computed after the rate of six per centum, per annum, from the said 20th day of November, 1840, till payment, and his costs by him about his suit in this behalf expended; to be levied of the goods and chattels of the testator in the hands of the defendants to be administered; and the said defendants in mercy, &c. Plaintiff's costs $8 90.

The following is a copy of the note on which this action was founded:

"$575. RICHMOND, *Nov. 20th*, 1840.

Due James P. Wilkinson, for value received, (viz., cash loaned,) five hundred and seventy-five dollars.

Given under my hand this day and date as above written.

ABNER ROBINSON."

On the preceding judgment a writ of fieri facias was issued, which writ, and the return thereon, are as follows:

The Commonwealth of Virginia, to the sheriff of Henrico county, greeting:

We command you that, of the goods and chattels of Abner Robinson, deceased, in the hands of William R. Johnson and Joseph Allen, executors of the last will and testament of the said Abner Robinson, deceased, in your bailiwick, you cause to be made five hundred and seventy-five dollars, with interest thereon, to be computed after the rate of six per centum per annum, from the 20th day of November, 1840, till payment; which James P. Wilkinson, late in our circuit superior court of law and chancery, for the county of Henrico, and city of Richmond, on the common law side, hath recovered against the said William R. Johnson and Joseph Allen, executors as aforesaid, as well for a certain debt as for interest thereon; also eight dollars ninety cents, which to the said James P. Wilkinson in the same court were adjudged for his costs by him about his suit in that behalf expended; whereof the said William R. Johnson and Joseph Allen, executors as aforesaid, are convict as appears, to us of record. And how you shall

execute this writ make known at the rules to be holden in the clerk's office of our said circuit superior court on the first Monday in September next. And have then there this writ.

Witness John Robinson, clerk of our said court, at Richmond, the 23d day of June, 1843, and in the 67th year of the commonwealth.

J. ROBINSON.

(*Return.*)

No effects found. THOMAS B. CARTER, *D. S.*,
For R. A. MAYO, *S. H. C.*

STATE OF VIRGINIA,
Henrico county and city of Richmond, to wit:

I, John Robinson, clerk of the circuit superior court of law and chancery, for the said county of Henrico and city of Richmond, on the common law side, in Virginia aforesaid, do hereby certify, that the aforegoing is a true transcript of the record and proceedings in a certain action of debt, lately depending in the said circuit superior court, between James P. Wilkinson, plaintiff, and William R. Johnson and Joseph Allen, executors of the last will and testament of Abner Robinson, deceased, defendants, with all things touching the same as fully and wholly as they now exist among the records of my office.

In testimony whereof I hereto set my hand and annex the seal of the said court, at Richmond, this 12th day of January, one thousand eight hundred and forty-four. [SEAL.]

JOHN ROBINSON.

Tax and clerk's fees for preceding, $2 37.

VIRGINIA, *Henrico county and city of Richmond, to wit:*

I, Philip N. Nicholas, only judge of the circuit superior court of law and chancery for the said county and city, on the common law side, in Virginia aforesaid, do certify, that John Robinson, who hath given the preceding certificate, is clerk of the said court, and that his said attestation is in due form.

Given under my hand this 23d day of January, 1844.

P. N. NICHOLAS.

Exhibit "E," offered and read by plaintiff, 21st May, 1850.

VIRGINIA.

Pleas before the circuit superior court of law and chancery, for the county of Henrico and city of Richmond, on the common law side, held for the trial of civil causes, on Wednesday, the 21st day of June, in the year one thousand eight hundred and forty-three.

Be it remembered, that heretofore, to wit, at rules, held in the clerk's office of the said circuit superior court, on the first Monday in February,

in the aforesaid year 1843, it being the 6th day of the month, came James P. Wilkinson, by his attorney, and filed his declaration against William R. Johnson and Joseph Allen, executors of the last will and testament of Abner Robinson, deceased, of a plea of debt; which declaration is in the words and figures following:

"VIRGINIA, *4th judicial district*,
21st circuit, *Henrico county*, *to wit:*

James P. Wilkinson, plaintiff, complains of William R. Johnson and Joseph Allen, executors of the last will and testament of Abner Robinson, deceased, defendants, in custody, &c., of a plea that the said defendants render unto him the sum of two hundred dollars, which from the plaintiff the said defendants unjustly detain; for this, that the said Abner Robinson in his lifetime, at Richmond, in the county of Henrico aforesaid, and within the jurisdiction of this court, on the nineteenth day of August, in the year 1842, by his certain writing obligatory, commonly called a single bill, sealed with his seal, and to the court now here shown, the date whereof is the same day and year aforesaid, promised to pay to the said plaintiff, on demand, the said sum of $200, for money borrowed; nevertheless the said Abner Robinson, although often requested in his lifetime to pay the said sum of $1,000 to the plaintiff, hath not done so, nor hath his executors since his death, although often requested; but the same to pay they and each of them have hitherto wholly failed and refused, and still do refuse, to the damage of this plaintiff of $20; and therefore suit is brought.

LYONS, *P. Q.*"

Whereupon the defendants being arrested, and not appearing, on the motion of the plaintiff, by his attorney, it was ordered that judgment be entered for the plaintiff against the said defendants for the debt in the declaration mentioned, and costs to be levied of the goods and chattels of the testator in the hands of the defendants to be administered, unless they should appear and plead to issue at the next rules.

At which day, to wit, at rules, held in the clerk's office of the said circuit court, on the first Monday in March, in the aforesaid year, 1843, it being the 6th day of the month, the defendants still failing to appear and plead to issue, on the motion of the plaintiff, by his attorney, it was ordered that the last order made against the defendants in this cause be confirmed.

And at another day, to wit, at a circuit superior court of law and chancery, for the said county of Henrico and city of Richmond, on the common law side, held for the trial of civil causes, on the third day of June, in the year last mentioned, came the parties aforesaid by their attorneys, and the defendants pleaded that their testator in his lifetime paid the debt in the declaration mentioned; to which the plaintiff replied, that the said testator did not pay the said debt, and put himself upon the country, and the defendants likewise; whereupon it was

ordered that the judgment obtained in the office against the said defendants be set aside.

And now, at this day, to wit, at the same circuit superior court, continued and held for the trial of civil causes, on the day and in the year first herein mentioned, to wit, Wednesday the 21st day of June, 1843, came the parties aforesaid by their attorneys, and thereupon came a jury, to wit, Robert M. Nimmo, Albert G. Binford, James B. Ferguson, jr., George N. Harris, William J. Willis, John G. Coffin, Richard Rogers, Edward S. Hobbs, N. Burke, Nath'l C. Winston, A. H. Dabney, and John Saway, who being elected, tried, and sworn the truth to speak upon the issue joined, upon their oath returned a verdict in the words and figures following: "We, the jury, find for the plaintiff the sum of two hundred dollars, with legal interest thereon from the 19th day of August, 1842, until payment." Therefore it is considered by the court, that the plaintiff recover against the defendants the said sum of two hundred dollars, with interest thereon, to be computed after the rate of six per centum per annum from the said 19th day of August, 1842, till payment, and his costs by him about his suit in this behalf expended; to be levied of the goods and chattels of the testator in the hands of the defendants to be administered; and the said defendants in mercy, &c. Plaintiff's costs $8.90.

The following is a copy of the single bill on which this action was founded.

"$200. RICHMOND, *August 19th*, 1842.

Due James P. Wilkinson two hundred dollars for money borrowed this day, as per check on the Farmer's Bank of Virginia, of the same date, &c.

Given under my hand and seal as above.

ABNER ROBINSON. [SEAL.]

On the preceding judgment a writ of fieri facias was issued, which writ and the return thereon are in the words and figures following:

The Commonweath of Virginia, to the sheriff of Henrico county, greeting:

We command you that of the goods and chattels of Abner Robinson, deceased, in the hands of William R. Johnson and Joseph Allen, executors of the last will and testament of the said Abner Robinson, deceased, in your bailiwick, you cause to be made two hundred dollars, with interest thereon, to be computed after the rate of six per centum per annum, from the nineteenth day of August, 1842, till payment, which James P. Wilkinson, late in our circuit superior court of law and chancery, for the county of Henrico and city of Richmond, on the common law side, hath recovered against the said Johnson and Allen, executors as aforesaid, as well for a certain debt as for interest thereon; also eight dollars 90 cents, which to the said James P. Wilkinson in the same court were adjudged for his cost by him about his suit in that behalf

expended; whereof the said William R. Johnson and Joseph Allen, executors as aforesaid, are convict, as appears to us of record; and how you shall execute this writ make known at the rules to be holden in the clerk's office of our said circuit superior court, on the first Monday in September next, and have then there this writ.

Witness John Robinson, clerk of our said court at Richmond, the 23d day of June, 1843, and in the 67th year of the commonwealth.

J. ROBINSON.

(Return.) No effects found.

THOMAS B. CARTER, *D. S.*,
For R. A. MAYO, *S. H. C.*

STATE OF VIRGINIA,
Henrico county and city of Richmond, to wit:

I, John Robinson, clerk of the circuit superior court of law and chancery, for the said county of Henrico and city of Richmond, on the common law side, in Virginia aforesaid, do hereby certify, that the aforegoing is a true transcript of the record and proceedings in a certain action of debt lately depending in the said circuit superior court, between James P. Wilkinson, plaintiff, and William R. Johnson and Joseph Allen, executors of the last will and testament of Abner Robinson, deceased, defendants, with all things touching the same, as fully and wholly as they now exist among the records of my office.

In testimony whereof I hereto set my hand and annex the seal of the said court at Richmond, this 12th day of January, one thou-
[SEAL.] sand eight hundred and forty-four.

J. ROBINSON.

Tax and clerk's fees for preceding, $2 37.

VIRGINIA, *Henrico county and city of Richmond, to wit:*

I, Philip N. Nicholas, only judge of the circuit superior court of law and chancery, for the said county and city, on the common law side, in Virginia aforesaid, do *do* certify, that John Robinson, who hath given the preceding certificate, is clerk of the said court, and that his attestation is in due form.

Given under my hand this 23d day of January, 1844.

P. N. NICHOLAS.

Exhibit "F," offered and read by plaintiff, 21st May, 1850.

VIRGINIA.

Pleas at the court-house of Henrico county, before the justices of the peace for the said county, on Monday, the fourteenth day of August, in the year one thousand eight hundred and forty-three, and in the sixty-eighth year of the commonwealth.

Be it remembered, that heretofore, to wit, on the (19th) nineteenth

day of October, in the year one thousand eight hundred and forty-two, came Bolling S. Dandridge, by Messrs. Meredith and Young, his attorneys, and sued out of the clerk's office of the county court of Henrico, a writ of capias ad respondendum against Abner Robinson; which writ, with the endorsement, affidavit, and return thereon made, is in the words and figures following, to wit:

The Commonwealth of Virginia, to the sheriff of Henrico county, greeting:

We command you to take Abner Robinson, if he be found within your bailiwick, and him safely keep so that you have his body before the justices of our said county court of Henrico, at the court-house, on the first Monday in November next, to answer Bolling S. Dandridge of a plea of trespass on the case, damage three hundred dollars; and have then there this writ.

Witness Loften N. Ellett, clerk of our said court, this 19th day of October, 1842, in the 67th year of the commonwealth.

LOFTEN N. ELLETT, *C. H. C.*

(Endorsement.) Action of trespass on the case on promises; no bail required.

MEREDITH & YOUNG, *P. Q.*

Affidavit.

VIRGINIA, *city of Richmond, to wit:*

This day Bolling S. Dandridge, the plaintiff in the writ hereto annexed, personally appeared before me, a justice of the peace in and for the said city, and made oath that Abner Robinson, the defendant in the said writ, is justly indebted to him in the sum of two hundred dollars, due by virtue of an agreement in writing entered into by the said plaintiff with one J. Alonzo Smith, the duly authorized agent of the said Robinson, employing the said plaintiff to manage the estate of the said defendant, known as Coles' Hill, in the county of Hanover, and that the said Robinson has declared his intention of going in a few weeks beyond the limits of this commonwealth, and that he, the said Dandridge, has just cause to apprehend, and does verily believe, that the said Robinson will depart out of this State, and out of the jurisdiction of the county court of Henrico, so that process of execution which may issue upon any judgment which may be rendered against the said Robinson in favor of the said plaintiff in this suit, cannot be served upon him, the said Robinson; the sheriff of Henrico is therefore hereby required to demand bail of the within named Abner Robinson in the sum of three hundred dollars.

Given under my hand the 19th day of October, 1842.

ALEX. DUVALL, *J. P.*

Return. The within writ came to my hands on the 5th day of Nov-

ember, A. D. 1842, and on that day I saw the defendant Abner Robinson, who was then and had been for some days confined to his bed by sickness; he declared his inability to give bail or to leave his bed, and his attending physician, Dr. M. Clarke, expressed his opinion, that if the defendant was taken from his bed and then carried to jail, it might cause his death. I have therefore been unable to obey the directions on the within writ, to obtain bail from the said defendant Abner Robinson, or to take him into custody.

THOMAS B. CARTER, *D. S.*
For JESSE SNEAD, *S. H. C.*

And at rules held for the said county, in the clerk's office, in the months of November and December, one thousand eight hundred and forty-two, and the month of January, one thousand eight hundred and forty-three, this suit was continued for a declaration.

And at another day, to wit, at rules held for the said county, in the clerk's office, on the 12th day of February, one thousand eight hundred and forty-three, came the plaintiff aforesaid, by his attorneys aforesaid, and the defendant having departed this life since the institution of this suit, on the motion of the plaintiff, by his attorneys aforesaid, a writ of scire facias was awarded to him to revive this suit against Joseph Allen and William R. Johnson, executors of the said defendant Abner Robinson, and which said writ of scire facias issued accordingly in these words:

The Commonwealth of Virginia, to the sheriff of Henrico county, greeting:

Whereas on the 19th day of October, 1842, came Bolling S. Dandridge, by his attorneys, and sued out of the clerk's office of Henrico county court a writ of capias ad respondendum against Abner Robinson, of a plea of trespass on the case, damage three hundred dollars, which writ was returnable to November court, 1842, and was returned executed on the said Abner Robinson, (without taking bail,) and the cause being thus situated, the said Abner Robinson departed this life, having first duly made and published his last will and testament in writing, and thereof appointed Joseph Allen and William R. Johnson his executors, who have taken upon themselves the burthen of the execution thereof. Therefore we command you, that you make known to the said Joseph Allen and William R. Johnson, executors of Abner Robinson, deceased, that they be before the justices of our county court for Henrico county, at the court-house, on the first Monday in March next, to shew cause, if any they can, why *why* the action aforesaid should not be proceeded in to a final judgment, according to the form of the act of assembly in that case made and provided. And have then there this writ.

Witness Loften N. Ellett, clerk of our said court, this 12th day of February, 1843, and in the 67th year of the commonwealth.

LOFTEN N. ELLETT, *C. H. C.*

Return. Executed on Jos. Allen and William R. Johnson, executors of Abner Robinson, deceased, the 4th day of March, 1843.

P. B. JONES, *D. S.*
For J. SNEAD, *S. H. C.*

And at rules held for the said county, in the clerk's office, in the months of March, April, and May, one thousand eight hundred and forty-three, this suit was continued for a declaration; and at another day, to wit, at rules held for the said county, in the clerk's office, on the 10th day of June, one thousand eight hundred and forty-three, came the plaintiff aforesaid, by his attorneys, and filed his declaration against Joseph Allen and William R. Johnson, executors of Abner Robinson, deceased; which declaration is in these words, to wit:

In the county court of Henrico, June rules, 1843.

HENRICO COUNTY, *to wit:*

Bolling S. Dandridge, plaintiff, complains of William R. Johnson and Joseph Allen, executors of the last will and testament of Abner Robinson, deceased, defendants, in custody, &c., of a plea of trespass on the case. For that whereas, heretofore, and during the lifetime of the said Abner Robinson, sct., on the day of , 1842, sct., at the county aforesaid, and within the jurisdiction of this court, in consideration that the said plaintiff, at the special instance and request of said Abner Robinson, would become, be, and act as the overseer of the said Abner Robinson at and upon a farm of the said Robinson, called Cole's hill, situated in the county of Hanover, for and during the year 1842, and from the time of the making of the agreement hereinafter mentioned until the end of the said year 1842, at and for certain wages, to wit, the wages of $200, he, the said plaintiff finding his own provisions; he, the said Abner Robinson, undertook, and then and there faithfully promised the said plaintiff to retain and employ the said plaintiff in his service, and in the capacity of overseer, as aforesaid, for the said year 1842, and from the time of the making of such promise and undertaking by the said Abner Robinson, until the end of the said year, and at and for the wages aforesaid of $200, he, the said plaintiff, agreeing to find his own provisions as aforesaid, and to continue the said plaintiff in his service, as aforesaid, during the said year 1842; and although the said plaintiff, confiding in the said promise and undertaking of the said Abner Robinson, did afterwards, sct., on the day of 1842, sct., at the county and within the jurisdiction aforesaid, become, be, and act as overseer of the said Robinson upon the plantation aforesaid, and upon the terms aforesaid, and did continue in such capacity in the service and employ of the said Robinson for a long space of time, to wit, until the day of October, 1842, to wit, at the county aforesaid; and although the said plaintiff hath always been ready and willing, and then and there offered and desired, to continue in said service and em-

ploy of said Abner Robinson, in the capacity of overseer as aforesaid, and on the terms aforesaid, until the expiration of the said year 1842, pursuant to the agreement between him, said plaintiff, and the said Robinson; and although he, the said plaintiff, hath always been ready to perform, and then and there was ready and willing, and offered to perform, every thing by him agreed to be done and performed, by the said agreement between him and the said Robinson, until the expiration of the said year 1842; yet the said Abner Robinson, not regarding his said promise and undertaking, but contriving, &c., did not, and would not, continue the said plaintiff in his service and employ in the capacity aforesaid until the expiration of the said year 1842; but, on contrary thereof, then and there refused to permit or suffer to continue in his said service or employ, as overseer as aforesaid, until the end of the said year 1842, and then and there discharged the said plaintiff from his said service and employ; and did, from that time until the expiration of the said year 1842, wholly neglect and refuse to retain or employ the said plaintiff in his said service or employ as aforesaid, or to pay him for the said time during which he was so discharged from said service or employ as aforesaid; and the said Robinson hath wholly neglected and refused to pay him any wages for the said year 1842; and by means whereof the said plaintiff hath lost and been wholly deprived of all the wages and profits which he might otherwise have derived and acquired from being continued in the said service and employ as aforesaid of said Robinson; and the said plaintiff, by means thereof, was, from the time of such discharge until the end of said year 1842, wholly unemployed, and was otherwise greatly damnified and injured, to wit, at the county and within the jurisdiction. 2. And whereas, also, heretofore and during the lifetime of the said Abner Robinson, sct., on the day of , at the county and within the jurisdiction aforesaid, he, the said Abner Robinson, was indebted to the said plaintiff in the sum of $200, lawful money of Virginia, for the wages or salary of the said plaintiff, before that time due and payable from the said Abner Robinson to the said plaintiff, for the service of the said plaintiff before that time done and performed, as the overseer of and for the said Robinson, at and upon a plantation of the said Robinson, called Cole's Hill, in the county of Hanover, in and for the year 1842, and on the retainer and special instance and request of said Abner Robinson; and being so indebted, he, the said Abner Robinson, during his lifetime afterwards, sct., on the day and year last aforesaid, at the county aforesaid, in consideration thereof, undertook and then and there faithfully promised the said plaintiff to pay him the said last mentioned sum of money when he, the said Robinson, should be thereto afterwards requested. 3. And for that whereas, heretofore, and during the lifetime of the said Abner Robinson, sct., on the day of , 184 , sct., at the county aforesaid, the said Robinson was indebted to the said plaintiff in the further sum of two hundred dollars, ($200,) for the work and labor, care and diligence, of the said plaintiff, by the said plaintiff, before that time, done, performed, and bestowed

in and about the business of the said Robinson, and at his special instance and request; and being so indebted, the said Abner Robinson, in consideration thereof, afterwards, sct., on the day and year last aforesaid, at the county aforesaid, undertook and then and there faithfully promised the said plaintiff to pay him the said last mentioned sum of money, when he, the said Robinson, should be thereunto afterwards requested. 4. And whereas, also, afterwards, sct., on the day of , at the county aforesaid, and during the lifetime of said Abner Robinson, the said Abner Robinson accounted with the said plaintiff of and concerning divers large sums of money, before that time due and owing to the said plaintiff from the said Robinson, and then due and unpaid, and upon such accounting the said Robinson was then and there found to be in arrear and indebted to the said plaintiff in the further sum of $200; and being so indebted he, the said Robinson, in consideration thereof, afterwards, sct., on the day and year last aforesaid, at the county aforesaid, undertook and then and there faithfully promised the said plaintiff to pay him the said last mentioned sum of money, when he should be thereto afterwards requested; nevertheless, neither the said Abner Robinson during his lifetime, nor the defendants since his death, have ever paid the several sums of money above specified, or any one of them, or any part thereof, to the plaintiff, but the same to pay have hitherto wholly neglected and refused, and the said defendants still neglect and refuse to pay the same to said plaintiff. By reason of all which promises the said plaintiff avers that he hath sustained great damage, to wit, to the amount of $300; and therefore he brings this suit.

MEREDITH & YOUNG, *P. Q.*

Whereupon the defendants, Joseph Allen and William R. Johnson, executors of Abner Robinson, deceased, having been duly warned and not appearing, on the motion of the plaintiff, by his attorneys, it was ordered, that judgment be entered for the plaintiff against the defendants, Joseph Allen and William R. Johnson, as executors of Abner Robinson, deceased, for what damages the plaintiff had sustained by occasion of the non-performance of the promises and assumptions in the declaration mentioned, unless the said defendants should appear and plead to issue at the then next rules; at which day, to wit, at rules, held in the clerk's office of the said county court of Henrico, on the 8th day of July, in the year last mentioned, the defendants, Joseph Allen and William R. Johnson, executors of Abner Robinson, deceased, still failing to appear, on motion of the plaintiff, by his attorneys, it was ordered that the last order, made against the said executors in this cause, be confirmed, and that the plaintiff's damages be ascertained by a jury at the then next term. And now at this day, to wit, at a quarterly court, held for the county of Henrico, at the courthouse on the same day and year first therein mentioned, to wit, on the fourteenth day of August, one thousand eight hundred and forty-

three, there came the plaintiff aforesaid, by his attorneys, and the defendants, being solemnly called, came not; and a jury, to wit, Samuel W. Greenhow, S. M. Davis, John A. Lemosey, H. A. Delcampa, Samuel Foose, G. D. Harwood, D. S. McCarthey, E. M. Morgan, H. Cameron, M. Huston, William Hawkins, and W. M. Harrison, being sworn diligently to inquire of damages in this suit, upon their oath do say: That the plaintiff hath sustained damages, by occasion of the non-performance, by the defendants' testator, of the promises and assumptions in the declaration mentioned, to two hundred dollars, besides his costs, and they do allow on the said damages interest, from the first day of January, 1843, till paid. Therefore, it is considered by the court, that the plaintiff recover against the defendants, Joseph Allen and William R. Johnson, executors of Abner Robinson, deceased, his damages assessed as aforesaid, with interest thereon, to be computed after the rate of six per centum per annum, from the said first day of January, one thousand eight hundred and forty-three, till payment, and his costs by him about his suit in this behalf expended, to be levied of the goods and chattels of the defendants' testator in the hands of the said defendants to be administered; and the said defendants in mercy, &c. Plaintiff's costs nine dollars and forty-seven cents.

On which judgment the following execution issued, to wit:

The Commonwealth of Virginia, to the sheriff of Henrico county, greeting:

We command you that, of the goods and chattels of Abner Robinson, deceased, in the hands of William R. Johnson and Joseph Allen, executors of the said Abner Robinson, late in your bailiwick, you cause to be made two hundred dollars, with interest thereon, to be computed after the rate of six per centum per annum, from the 1st day of January, 1843, till paid; also nine dollars and forty-seven cents, which to Bolling L. Dandridge, lately in our county court of Henrico, were adjudged as well for damages which he sustained by occasion of the non-performance of a certain promise and assumption by the said Robinson in his lifetime to the said Dandridge made, as for his costs by him about his suit in that behalf expended, whereof the said Robinson's executors are convict, as appears to us of record; and that you have the same before the justices of our said county court of Henrico, at the court-house, on the first Monday in November next, to render to the said Dandridge of the damages, interest, and cost, as aforesaid; and have then there this writ.

Witness Loften N. Ellett, clerk of our said court, at the court-house, this 16th day of August, 1843, in the 68th year of the commonwealth.

L. N. ELLETT, *C. H. C.*

Return: No effects found.

THOMAS B. CARTER, *D. S.*
For R. A. MAYO, *S. H. C.*

STATE OF VIRGINIA,
Henrico county, to wit:

I, Loften N. Ellett, clerk of the county court for the said county of Henrico, in the State of Virginia, do hereby certify, that the foregoing is a true transcript of the record and proceedings in a certain action on the case lately depending in our county court, for the said county of Henrico, and State aforesaid, between Bolling S. Dandridge, plaintiff, and Joseph Allen and William R. Johnson, executors of Abner Robinson, deceased, defendants, with all things touching the same, as fully and wholly as they now exist among the records of my office.

In testimony whereof I hereto subscribe my name and annex the seal of the said court, this thirteenth day of March, one thou-
[SEAL.] sand eight hundred and forty-seven, and in the seventy-first year of the commonwealth.

LOFTEN N. ELLETT, *C. H. C.*

VIRGINIA, *Henrico county, to wit:*

I, John G. Mosby, presiding justice of the peace of the county court, for the said county of Henrico, in the State of Virginia, do certify, that Loften N. Ellett, who hath given the preceding certificate, is clerk of the said county court of Henrico county, in the State aforesaid, and that his said attestation is in due form.

Given under my hand and seal, the 17th day of March, one thousand eight hundred and forty-seven.

JNO. G. MOSBY. [SEAL.]

VIRGINIA, *Henrico county, to wit:*

I, Loften N. Ellett, clerk of the county court, for the said county of Henrico, in the State of Virginia, do hereby certify, that John G. Mosby, who has given the preceding certificate, is the presiding justice of the peace of the county court for the said county of Henrico, in the State aforesaid, and that full faith and credit ought to be given to all of his official acts as such.

Given under my hand, this 17th day of March, 1847.

LOFTEN N. ELLETT, *C. H. C.*

A copy of Abner Robinson's will, offered and read by plaintiff, 21st May, 1850.

In the name of God, amen! I, Abner Robinson, of the city of Richmond, in Virginia, being infirm of body, but of sound mind and memory, do make and ordain this to be my last will and testament, hereby revoking all prior wills heretofore made by me.

Imprimis. I direct that all my just debts be paid.

Item. After payment of my debts, I give and bequeath to Mrs. Harriet Scott, of the State of Illinois, and to her descendants, one hundred thousand dollars; said sum to be loaned out by my executors in the State of Louisiana, upon mortgage on sufficient real and per-

sonal estate, at ten per cent. per annum, if it can be obtained, and the interest only paid annually to her, the said Harriet Scott, for her own exclusive use and benefit, free from all the debts or control of any husband she may have, for and during her natural life; and, after her death, I give the said one hundred thousand dollars to be equally divided between her children then living, and the descendants of any of such as may be dead; such descendants taking the share of their deceased parent to them and their heirs forever.

Item. I give and bequeath to John R. Grymes, of New Orleans, ten thousand dollars, to him and his heirs forever, in consideration of which he is to render any professional services and advice which my estate may stand in need of.

Item. I give and bequeath to Joseph Allen thirty thousand dollars, to him and his heirs forever.

Item. I give and bequeath to William R. Johnson twenty-five thousand dollars, to him and his heirs forever.

I desire that my Louisiana estate shall be kept together and not sold until the 1st of January, 1845, and the profits arising therefrom, in the mean time, applied to the payment of my just debts and legacies; and as soon after the said first of January, 1845, as practicable, I desire that my home plantation on the La Fourche may be sold for the best price that can be obtained therefor, payable in ten equal instalments, with ten per cent. per annum interest from the day of sale, the interest of the whole purchase money, and one-fifth of the principal, to be paid annually.

I desire that Joseph W. Tucker shall have the option of taking my moiety of the estate, and the property thereon owned jointly by us in Louisiana, as it now stands, at seventy-five thousand dollars, payable in three equal annual instalments from the day of sale, without interest; and in case any additional property shall be put on the estate before the sale, one-half of the value of such additional property is to be paid for by him on the same terms, in addition to the above price. And if the said Tucker refuses to take my moiety of the estate on the terms above stated, then I direct my executors to sell the same, and also all the rest of my Louisiana property, upon such credit and terms as to them shall seem best calculated to insure a good price.

I also direct my executors to sell all my property in Virginia as soon after my death as they may think expedient, upon such credit as they shall judge best calculated to insure a good price.

All the rest and residue of my estate, after payment of my debts and legacies herein given, I give and bequeath to my nephews and nieces in equal portions; and in case any of them be dead, then I give to the descendants, if any, of such deceased nephew or niece, the portion that their parent would have taken if living, to be equally divided between them and their heirs forever.

Lastly. I nominate and appoint William R. Johnson and Joseph Allen, of Virginia, and Thomas Pugh and Joseph W. Tucker, of

Louisiana, executors to this will; and as I have full confidence in their integrity, I desire that no security may be required of them.

In testimony whereof I have hereunto set my hand and seal this sixth day of December, 1842.

ABNER ROBINSON. [SEAL.]

Signed, sealed, published, and declared as and for the last will of the testator, in presence of us; one or two erasures and interlineations being first made—

THOMAS J. BAUGH,
WM. J. CLARKE,
ROBERT H. CABELL.

At a circuit superior court of law and chancery, for the county of Henrico and city of Richmond, on the common law side, held for the trial of civil causes the 21st day of December, 1842, this last will and testament of Abner Robinson, deceased, was proved according to law by the oaths of Thomas J. Baugh, Wm. J. Clarke, and Robert H. Cabell, the witnesses thereto, and ordered to be recorded. And on the motions of William R. Johnson and Joseph Allen, executors therein named, who made oath according to law, and severally entered into and acknowledged separate bonds, in the penalty of fifty thousand dollars each, conditioned as the law directs, but without security, it being directed by the said will that none should be required of them, certificate is granted them for obtaining a probate of the said will in due form.

Teste: J. ROBINSON, *C. C.*

A copy. J. ROBINSON,
Clerk circuit court for Henrico, &c., law side.

Endorsed as follows: "No. 7. Offered and read by plaintiff, 21st May, 1850.

J. W. GURLEY, *Clerk.*

Paper marked succession of James Wilkinson. (No. 5 on record of case No. 1682.)

State of Louisiana, second district court of New Orleans.

Succession of James P. Wilkinson.

Petition for curatorship filed 23d April, 1846.

To the honorable the probate court of the city and parish of New Orleans. The petition of Edmund Randolph, residing in the city of New Orleans, humbly shews, that James P. Wilkin , who lately resided in the State of Virginia, but who is now deceased, left property, rights, and credits in the city of New Orleans, and that his said estate is now vacant and unadministered, and that petitioner is a creditor of the said

Wilkinson or his estate. Wherefore petitioner prays, that in consideration of the affidavit annexed, and the premises, that, after due advertisement and legal proceedings had, an inventory be made of the property belonging to said succession according to law, and that petitioner be appointed the curator of said vacant succession on complying with the requisites of the law, and for all other and further general relief in the premises, &c., &c.

Signed, ROBT. MOTT,
Atty. for petitioner.

Order.

Let petitioner's application for letters of curatorship be advertised accordingly. New Orleans, 23d April, 1846.

Signed, J. BERMUDEZ, *Judge.*

Affidavit, filed April 23, 1846.

Personally appeared Edmund Randolph, who being sworn, desposes and says: That he has reason to believe that James P. Wilkinson died during the year 1845, in the State of Virginia, and that he founds this belief on the fact that he remitted money to said Wilkinson, and received no answer, but was informed, through letter annexed, that the money had been paid to the legal representatives of said Wilkinson, who was dead; and moreover, from having had the fact so represented to him by persons connected with him in business, and whom he believes had correct information.

Signed, EDMUND RANDOLPH.

Sworn to and subscribed before me, this 22d day of April, 1846.

Signed, O. P. JACKSON, *Judge.*

Letter.

FARMER'S BANK OF VIRGINIA,
Richmond, April 11, 1846.

PETER CONREY, esq, *New Orleans.*

DEAR SIR: I have received your letter of 30th ulto. inquiring whether your check on this bank, No. 8, July 7, '45, for $430.60, favor of James P. Wilkinson, has been paid. It was presented and placed to the credit of Jas. P. Wilkinson, whose legal representative has drawn the money since his death.

Very respectfully, your ob't serv't,

J. G. BLAIR, *Cas.*

(Addressed) Peter Conrey, jr., esq., New Orleans.

Personally appeared before me, Asbury Crenshaw, who deposed and said: That he has for many years been familiar with the handwriting

of John G. Blair, of Richmond, Virginia, who purports to have signed the above letter, and he believes it to be the handwriting of said John G. Blair. He also deposes that he has understood that Mr. James P. Wilkinson is dead, and that he died, according to his information, which was verbal, and derived from a Mr. Tucker, now living in this State, about some time in the latter part of last summer. He further deposes, that he has reason to believe that Mr. Wilkinson is dead from his not answering a letter with a remittance made by Crenshaw & Co. to him, in the month of June last.

(Signed) ASBURY CRENSHAW.

Personally appeared before me George Pollard, who deposed and said, that he has examined the signature of J. G. Blair to the foregoing letter, and that he believes it to be genuine.

(Signed) GEORGE POLLARD.

Sworn to and subscribed before me, this 22d April, 1846.

(Signed) ALEXANDER WALKER,
Associate judge city court, New Orleans, Louisiana.

Petition, filed 6th May, 1846.

To the honorable the probate court of the city and parish of New Orleans:

The petition of Edmund Randolph, residing in New Orleans, humbly shows, that due advertisement has been made of his application to be appointed curator of the vacant succession of James P. Wilkinson, deceased, and no opposition having been made thereto, he prays to be confirmed in said office of curator on complying with the requirements of the law, and that an attorney be appointed to represent the absent heirs, and an inventory made of the effects of said succession; and for such other and further orders as may be necessary and proper. The premises, &c.

(Signed) ROBT. MOTT,
Atty. for petitioner.

Order.

Due and public notices having been given of petitioner's application for letters of curatorship, and no opposition having been made thereto filed: It is ordered that petitioner be appointed curator of this estate on his complying with the requisites of law. Let the inventory within prayed for be taken by G. R. Stringer, esq., not. pub., in the presence of all parties interested, or them duly called, and also in the presence of A. Pitot, esq., attorney and counsellor at law, hereby appointed to represent the absent heirs of the deceased; and let P. Allard and P. A. Charbonnett, be appointed appraisers to value the property to be inventoried.

New Orleans, May 6, 1846.

(Signed) J. BERMUDEZ, *Judge.*

Oath of appraisers, 8th May, 1846.—Succession of J. P. Wilkinson.

STATE OF LOUISIANA,
City of New Orleans.

In the court of probates, in and for the parish and city of New Orleans.

Before me, Pierre M. Bertin, deputy register of wills in and for the parish and city of New Orleans, personally came and appeared P. Allard and P. A. Charbonnet, who solemnly swear that they will well and faithfully perform all and singular the duties of appraisers, to value the property to be inventoried in the succession of J. P. Wilkinson. So help them God.

(Signed) P. ALLARD,
(Signed) P. A. CHARBONNET.

Sworn to and subscribed before me, New Orleans, this 8th day of May, 1846.

(Signed) P. M. BERTIN,
Dy. register of wills.

Petition, filed 19th May, 1846.

To the honorable the probate court, for the city and parish of New Orleans:

The petition of Edmund Randolph, residing in New Orleans, humbly shows, that an inventory has been duly and legally made of the property of the succession of James P. Wilkinson, deceased, which amounts to $2,603 99½, and is duly returned herewith. Wherefore he prays that the said inventory be homologated and filed, and that petitioner be allowed to give John E. Townes and J. P. Walden security as the law directs, and for letters of administration, and for all other and further orders and decrees as may be necessary in the premises.

(Signed) ROBT. MOTT,
Attorney for petitioner.

I have no objection to the security offered. N. O., May 19, 1846.

(Signed) ARMAND PITOT,
Attorney for abs. heirs.

J. P. Walden being sworn says, that he is worth the sum of sixteen hundred and thirty dollars, all his debts paid.

(Signed) J. P. WALDEN.

Sworn to and subscribed before me, this 19th May, 1846.

(Signed) P. M. BERTIN,
Deputy register of wills.

John P. Townes being duly sworn says, that he is worth the sum of sixteen hundred and thirty dollars, all his debts paid.

(Signed) JOHN E. TOWNES.

Sworn to and subscribed before me, this 19th May, 1846.

(Signed) P. M. BERTIN,
Deputy register of wills.

Order.

Let the accompaning inventory be filed, approved, and homologated, and let letters of curatorship be delivered to petitioner, on his giving bond and security in the sum of three thousand two hundred and sixty dollars, with J. P. Walden and John E. Townes as his securities, said bond conditioned as the law directs. New Orleans, 19th May, 1846.

(Signed) J. BERMUDEZ, *Judge.*

Bond.

THE STATE OF LOUISIANA,
City of New Orleans, court of probates.

Know all men by these presents, that we, Edmund Randolph, as principal, and J. P. Walden and John E. Townes, as securities, of the State of Louisiana, are held and firmly bound unto Joachim Bermudez, judge of the court of probates, in and for the city and parish of New Orleans, or to his successors in office, in the sum of three thousand two hundred and sixty dollars, current money of the United States of America, which we promise to pay to him or his successors in office; for the faithful performance of which we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, renouncing all benefit, or division, or discussion whatsoever.

Sealed with our seals this 19th day of May, in the year of our Lord 1846, and the 70th of the independence of the United States of America.

The condition of the above obligation is such, that if the above bounden Edmund Randolph, curator of the estate of the late James P. Wilkinson, deceased, does well and truly, according to law, administer the same, and further does make and render a true, just, and perfect account of his actions and doings when thereto lawfully required, either by the aforesaid judge or his successors in office, agreeably to law, or by the heirs of said deceased, or their lawful attorney or attorneys, or by the duly appointed and authorized executor or executors of the last will and testament *was* by the said deceased made, then this obligation to be void, or else to remain in full force and virtue.

In witness whereof we have hereunto set our hands and seals this day and year first above written.

(Signed) EDMUND RANDOLPH,
(Signed) J. P. WALDEN,
(Signed) JNO. E. JONES.

In the presence of—
(Signed) P. M. BERTIN,
Deputy register of wills.

Oath of curator, 19th May, 1846.

STATE OF LOUISIANA,
City of New Orleans.

In the court of probates, in and for the city and parish of Orleans.

Succession of James P. Wilkinson.

Before me, Pierre M. Bertin, deputy register of wills in and for the parish and city of New Orleans, personally came and appeared Edmund Randolph, who solemnly swears that he will well and faithfully perform all and singular the duties of curator of the succession of James P. Wilkinson, deceased. So help him God.

(Signed) EDMUND RANDOLPH.

Sworn to and subscribed before me, New Orleans, this 19th day of May, 1846.

(Signed) P. M. BERTIN,
Dy. reg. of wills.

Petition filed 28th May, 1846.

To the honorable the judge of the court of probates for the city and parish of New Orleans, the petition of Edmund Randolph, residing in New Orleans, and curator of the succession of James P. Wilkinson, deceased, humbly shews:

That since the inventory was taken herein, he has discovered property, rights, and credits within the jurisdiction of this honorable court; wherefore he prays for a supplemental inventory to be made, and for general relief, &c.

(Signed) ROBT. MOTT,
Attorney for curator.

Order.

Let the supplemental inventory within prayed for be made by G. R. Stringer, esq., notary public, in the presence of all parties interested, or them duly called; and let P. Allard and P. A. Charbonet be appointed appraisers to value the property to be inventoried.

New Orleans, 28th May, 1846.

(Signed) J. BERMUDEZ, *Judge.*

Petition filed 2d July, 1846.

To the honorable the second district court of New Orleans, the petition of Edmund Randolph, residing in New Orleans, curator of the succession of James P. Wilkinson, deceased, humbly shews:

That, in conformity with the order of the probate court of the city and parish of New Orleans, bearing date the 28th day of May, 1846, a supplemental and additional inventory has been made after due ap-

praisement of the property of the succession not previously inventoried, and which is hereto annexed; wherefore petitioner prays that the same may be homologated, and all such further orders given and proceedings had as the nature of the cause may require, &c.

(Signed) ROB'T. MOTT,
Attorney for the curator.

I have no objection to the prayer of this petition.

(Signed) ARMAND PITOT,
Attorney for absent heirs.

Affidavit.

H. D. Ogden, being duly sworn, says, that he is worth the sum of three hundred dollars over and above his debts.

(Signed) H. D. OGDEN.

Sworn to and subscribed before me, this 2d July, 1846.

(Signed) P. M. BERTIN,
Deputy clerk.

Order.

Let this supplemental inventory be filed, approved, and homologated, and let the petitioner be authorized to give bond in the sum of three hundred dollars, with H. D. Odgen as his security; said bond to [be] conditioned as the law directs.

New Orleans, 2d July, 1846.

(Signed) E. A. CANON, *Judge.*

Letters, 25th January, 1847.

THE STATE OF LOUISIANA,
Second district court of New Orleans.

This shall certify, to all whom it may concern, that on the 23d day of April, 1846, and the 70th of the independence of the United States of America, an application was made to the honorable judge of the late court of probates by Edmund Randolph, praying that he might be appointed curator to the vacant estate of James P. Wilkinson, deceased. Now, know ye, that Edmund Randolph has been, and that he is hereby, appointed curator to the said vacant estate, and that he has fulfilled all the requisites of the law.

Witness our hand and the seal of the said second district court, this 25th day of January, A. D. 1847, and the 71st of the independence of the United States.

(Signed) E. A. CANON, *Judge,*
(Signed) P. M. BERTIN,
Deputy clerk.

Petition filed 13th April, 1847.

To the honorable the second district court of New Orleans, the petition of Edmund Randolph, residing in New Orleans, curator of the succession of James P. Wilkinson, deceased, humbly shews:

That petitioner has collected all the property and assets of the estate that he was able, and has this day made and herewith presents his final tableau of distribution of the said estate, which he files in the said succession; wherefore he prays that due publication be made of said tableau, after which that the same be approved and homologated and the funds distributed in accordance therewith, and for such other and further relief as the nature of the case may require, &c.

(Signed) ROBT. MOTT.

Order.

Let public notice be given to the creditors of this estate, and to all others therein interested, to show cause, within ten days from notification hereof, why the within account should not be approved and homologated, and the funds distributed accordingly.

New Orleans, 13th April, 1847.

(Signed) E. A. CANON, *Judge.*

Account filed 13th April, 1847.

Dr. Final tableau of distribution of the estate of James P. Wilkinson, deceased.		Cr.
Paid cost of protest of 2 notes	$6	00
" G. R. Stringer, notary public, for inventory	30	00
" Bacon Tait one-third of the amount collected of the register of wills, being his proportion of said sums in consequence of his judgment against De Ende	245	86
" register of wills, costs:		
" printing	15	00
" appraisers	8	00
" commissions to curator 2½ per cent. on $2,176 96	54	42
" clerk's costs, Poole	5	00
" attorney of absent heirs, Arm'd Pitot	50	00
" Robert Mott, attorney of the curator for this estate, and in attending to suit vs. executors of H. D. Ende	250	00
Cr. by amount collected of Power's heirs	500	00
" by amount collected of register of wills, which was deposited by Power's heirs	737	62
" amount collected of A. M. Buchanan, arising from sales of Power's estate	939	34
	$2,176	96

There being no creditors of the estate, this balance of is to be paid to Mrs. Wilkinson, widow and universal legatee of James P. Wilkinson, deceased, who will claim the same, after paying all costs of this homologation.

New Orleans, 13th April, 1847.

(Signed) EDMUND RANDOLPH,
Curator, &c.

Petition of widow, filed 15th April, 1847.

To the honorable the second district court of New Orleans, the petition of Mrs. Catherine Wilkinson, wife of Nathaniel B. Hill, herein aided and assisted by her said husband, both of whom reside in Richmond, in the State of Virginia, humbly shews:

That petitioner is the universal heir and legatee of James P. Wilkinson, deceased, as well as administratrix of said Wilkinson's estate, as will more fully appear by the duly certified and authenticated copy of the will of said Wilkinson, which was duly probated in Virginia, where the said Wilkinson resided and had his domicil at the time of his decease, and of the letters of administration to her duly granted by the proper court, all of which are hereunto annexed, and made part thereof; that the petitioner was the wife of *of* said James P. Wilkinson during his lifetime, and since his death she has married her present husband, Nathaniel B. Hill; that the succession of said James P. Wilkinson has been opened in this honorable court, and Edmund Randolph, esqr., been appointed curator thereof; that said curator has proceeded to administer said succession, and has collected large sums of money belonging to the same, and filed a final tableau of distribution of the funds of the same, in which he shows a balance belonging to petitioner as the heir and universal legatee of said James P. Wilkinson, deceased; that besides these funds the said Randolph has certain notes described in the inventory, all of which petitioner prays may be paid and delivered to her in virtue of her heirship as universal legatee, and that she be duly authorized to receive and collect the same, and any and all other assets, effects, or moneys belonging to her or her said testator in the State of Louisiana.

Wherefore she prays that the said Randolph and A. Pitot, attorney for absent heirs, be cited to appear and answer this petition, and that he be ordered to deliver such funds and effects as are in his hands to petitioner, after due compliance with all legal requirements; and that petitioner be recognised as the heir and universal legatee of said James P. Wilkinson, deceased; and for such other and further relief as the nature of the case may require, &c.

Signed, CATHARINE HILL.

I authorize my wife to act in the aforegoing matter.

Signed, NATHANIEL B. HILL.

Service accepted. N. Orleans, April 17th, 1847.
Signed, ARMAND PITOT,
Attorney for absent heirs.

Service accepted for curator.
Signed, ROBT. MOTT, *Attorney.*

Document, will, &c., filed 15th April, 1847.

STATE OF VIRGINIA,
Chesterfield county, to wit:

Whereas at a circuit superior court of law and chancery, held for Chesterfield county, at the court-house thereof, on the 31st day of October, A. D. 1845, and in the 70th year of the commonwealth, a writing, purporting to be the last will and testament of James P. Wilkinson, deceased, was produced in court for probate; and Nathaniel B. Hill and Nathaniel Glinn, who, being sworn for that purpose, deposed, that they are well acquainted with the handwriting of the testator, having often seen him write, and that the whole of the said writing was written by the said James P. Wilkinson, deceased. Whereupon it was ordered that the said writing be established and recorded as the last will and testament of the said James P. Wilkinson, deceased; which said writing is in the words and figures following, to wit:

May 15th, 1843.

Due for 12 months from Col. Burfoot; paid.
Do. Thomas Gills - - - - - $159
In the hands of James Lyons, Seymour P. Veal's debt $3,500
Abner Robinson's debt, in do. - - 800
4,300
In Joe Allen's hands, due from A. Robinson - 210
For commission on sale, Puckett's property, and half Strange's horses - - - - - 60
270
Due from Lewis Graves, of Orange, two colts, 1 and 2 years old; 1 mare and 2 colts, 2 and 3 years old.
Do. from Jack Jones 1 mare and two horses, colts.
At Curchman's, in Augusta county, one young filley.
Due from A. Robinson's estate, Louisiana, for horses - 200
In Silas ——— hands, on Wm. Strange, my act. for - 26
Due me from Joel —— nothing.
Capt. Bardon owes for Joe; paid.
Due from Sands, clerk of the court - - - - 50

I leave my bonds and receipts, as all above, *I leave* to my wife, and with her *and* every thing else I have, forever.

J. P. W.

Due from Wm. Goodwin, for Thomas Jackson - - $18
Due from John Wilkinson, for horse and cart - - 115

And on the motion of Catharine Wilkinson, widow and relict of the said James P. Wilkinson, deceased, who made oath according to law, and with John Wilkinson and Ambrose White, her securities, who justified as to their sufficiency, entered into and acknowledged a bond in the penalty of ten thousand dollars, conditioned as the law directs, certificate was granted the said Catharine Wilkinson for obtaining, in due form, letters of administration on the estate of the said James P. Wilkinson, deceased, with his will annexed; and whereas, by an act of the general assembly of Virginia, passed on the 3d day of March, A. D. 1819, entitled "An act reducing into one the several acts concerning wills, the distribution of intestates' estates, and the duty of executors and administrators," it is, among other things, provided that the clerk of the courts shall, when required by an administrator, make out letters of administration in due form, in the name of the first justice or presiding judge of the court, which letters shall be signed by such judge or justice, and sealed with the court's seal.

Therefore I, John P. Clopton, judge of the said circuit superior court of law and chancery, for the county of Chesterfield, in pursuance of the above recited act, do issue these letters of administration, and do hereby authorize and empower the said Catharine Wilkinson well and truly to collect and administer all and singular the goods, chattels, and credits of the said James P. Wilkinson, deceased, in all matters and things concerning the same, according to the true intent and meaning of the said will annexed, and according to law; hereby requiring the said administratrix to make and exhibit, into the said circuit superior court of law and chancery, a true and perfect inventory of the said goods, chattels, and credits, and also to make a just and true account of her actings and doings therein, when thereto lawfully required.

Given under my hand and seal of the said court, this 10th day of August, in the year 1846, and in the 71st year of the commonwealth.

Signed, JOHN P. CLOPTON.

Document—marriage certificate, filed 15th April, 1847.

I hereby certify, that, in pursuance of a license, issued by the clerk of the county *clerk* of King William, I this day joined together in the holy *estate* of matrimony Nat. B. Hill and Catharine Wilkinson, of said county. Given under my hand, this 15th day of December, 1846.

Signed, J. O. TURPIN,

A legally authorized minister of the Gospel.

To the clerk of King William county court.

In King William county clerk's office, 22d February, 1847, this certificate was received, and is truly recorded.

Signed, R. POLLARD, *Clerk.*

STATE OF VIRGINIA,

King William county, to wit:

I, Robert Pollard, clerk of the county aforesaid, in the State afore-

said, do hereby certify, that the foregoing is a true transcript from the record of the court of said county.

In testimony whereof I hereto set my hand and annex the seal of the said county, this 13th day of March, A. D. 1847, and of American independence the 71st.

Signed, R. POLLARD,
Clerk of King William county court.

VIRGINIA, *King William county, to wit:*

I, Thomas Dabney, presiding justice of the peace of the county of King William, in the State of Virginia, do hereby certify, that Robert Pollard, who hath given the preceding certificate, is clerk of the said court, and that his said attestation is in due form. Given under my hand, this 22d day of March, 1847.

Signed, THOMAS DABNEY,
Presiding justice of the peace for King William county.

Opposition of the State of Louisiana, filed 20th April, 1847.

Succession of James P. Wilkinson.

The opposition of Eugene Musson and J. J. Pepin, of counsel for the treasurer of the State of Louisiana to the final tableau of distribution rendered by Edmund Randolph, curator of the vacant estate of the late James P. Wilkinson, respectfully shews: That they oppose the homologation of said tableau for this that the balance of said estate is granted to one Catharine Hill, whose just claim to it is totally unsupported by any kind of proof; that they deny that said Catherine Hill be entitled to said balance, and that they require the strictest proof of the alleged existing between said Catharine Hill and deceased. That the whole of the assets, such as inventoried, do not appear on said tableau. Wherefore opponents pray that the above mentioned tableau, filed by the curator aforesaid, be so amended as to reject the claim of said Catharine Hill. That said assets, such as inventoried the curator aforesaid, and that he be ordered to deposit the balance of said estate into the hands of the treasurer of the State. They farther pray for all other and general relief.

(Signed) E. MUSSON & PEPIN,
Attys. for State treasurer.

Affidavit for commission, filed 28th April, 1847.

Personally appeared Mrs. Catharine Hill, who being sworn, deposes and says, that the testimony of Wm. C. Allen and Nathaniel Glinn is necessary and material for the trial of the opposition to the tableau filed by the curators of the succession of James P. Wilkinson.

(Signed) CATHERINE HILL.

Sworn to and subscribed before me, this 28th day of April, 1847.

(Signed) GEORGE Y. BRIGHT,

Second justice of the peace for the parish of Orleans, State of Louisiana.

Order commission, 30th April, 1847.

Succession of James P. Wilkinson.

On motion of Robt. Mott, esqr., of counsel for Edmund Randolph, curator, and of A. A. Fraser, esqr., of counsel for Mrs. Catharine Hill, it is ordered that a commission issue to any judge or justice of the peace, or commissioner, at Richmond, Virginia, to take the testimony of witnesses, whose names are stated in the affidavit on file, and that thirty days be allowed for the return thereof.

Testimony, filed 14th May, 1847.

Succession of James P. Wilkinson.

Widow of J. P. Wilkinson and claimants, offer in evidence will of deceased, now filed, and which has been duly probated in the State of Virginia; also certificate of the marriage between the widow of deceased, and her present husband, N. B. Hill, now filed.

Nathaniel Matthews, witness for the widow et al., sworn, says: That he knew deceased personally for the last ten years; he died in Richmond, Virginia. Witness has also known the widow of the deceased for the last ten years, before and since the death of J. P. Wilkinson. After Wilkinson's death she married Mr. Hill; her name before her marriage with Hill was Mrs. Catharine Wilkinson. Witness has seen her since her arrival in New Orleans; she is the same lady that he knew in Virginia, and who is now claiming this estate. Wilkinson resided in the county of Chesterfield, but he died in the city of Richmond, at Bell tavern.

Cross examined.

Witness says that he knows that Wilkinson was married to the present applicant from common report, and has heard from his acquaintances, and also from ladies, that they were married. Witness knows the gentleman at whose house they were married, but he does not know the fact himself, as they were married before he became acquainted with them. Witness does not know if a registery of marriage is kept by law in Virginia. Witness is unmarried, and knows nothing of these matters. He knows that to get married it is necessary to get a license; they are generally married by parsons or ministers of the gospel.

Document offered in evidence, filed 14th May, 1847.

May 15th, 1843.

Due for 12 months from Colonel Burfoot, paid.

" Thomas Gills, do. - - - $159

In the hands of James Lyons, Seymour P. Veal's debt	$3,500	
Abner Robinson's debt in do. - - - -	800	
		4,300
In Joe Allen's hands, due from J. Robinson - -	210	
For commission on sale of Puckett's property and half Strange's horses - - - - - -	60	
		270
Due from Lewis Graves, of Orange, two colts 1 and 2 years old, and one mare and two colts two and three years old.		
Do. from Jack Jones one mare and two horses, colts.		
At Churchman's, in Augusta co., one young filley.		
Due from A. Robinson's estate in Louisiana, for horses -		200
In Silas Omohondroe's hands, on Wm. Strange, my act. for -		26
Due me from jail.		
Capt. Barden owes for Joe, paid.		
Due from Sands, clerk of the court - - - -		50
I leave my bonds and receipts as all above, I leave to my wife and with her, and everything else I have forever. J. P. W.		
Due from Wm. Goodwin, for Thos. Jackson - - -		18
Due from John Wilkinson, for horse and cart - - -		115

In Chesterfield circuit court, October 31, 1845.

A writing purporting to be the last will and testament of James P. Wilkinson, deceased, was produced in court for probate, and Nathaniel B. Hill and Nathaniel Glinn, being sworn for that purpose, deposed, that they are well acquainted with the handwriting of the said testator, having often seen him write, and that the whole of said writing was written by the said Wilkinson. Whereupon it is ordered, that the said writing be established and recorded as the last will and testament of the said James P. Wilkinson, deceased.

On the motion of Catherine Wilkinson, widow of James P. Wilkinson, who entered into bond with John Wilkinson and Ambrose White, her securities, who justified as to their sufficiency in the penalty of ten thousand dollars, conditioned as the law directs, and took the oath prescribed by law, certificate is granted her for obtaining letters of administration on the estate of James P. Wilkinson, deceased, with his will annexed in due form.

VIRGINIA, *Chesterfield county, to wit:*

I, Parke Poindexter, clerk of the circuit superior court of law and chancery for Chesterfield county, do hereby certify, that the foregoing transcript of the last will and testament of James P. Wilkinson, deceased, duly probated on the 31st October, 1845, and on file in my office, is truly and correctly copied.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said court, this 4th day of May, A. D. 1847, and in the 71st year of the commonwealth. P. POINDEXTER,

Clerk of the cir. sup. court of law and chancery for Chesterfield county.

VIRGINIA, *Chesterfield county, to wit:*

I, John B. Clopton, only judge of the circuit superior court of law and chancery for Chesterfield county, in the State aforesaid, do certify, that Parke Poindexter, who hath given the preceding certificate, is clerk of the said court, that his said signature is genuine, and that his said attestation is in due form. Given under my hand, this 5th day of May, in the year 1847.

(Signed) JOHN B. CLOPTON.

Document offered in evidence, filed 14th May, 1847.

I hereby certify, that in pursuance of a license issued by the clerk of the county court of King William, I this day joined together, in the holy estate of matrimony Nathaniel B. Hill and Catherine Wilkinson, of said county. Given from under my hand, this 15th day of December, 1846.

(Signed) J. O. TURPIN,
A legally authorized minister of the Gospel.

To the clerk of King William county court.

In King William county court, clerk's office, 22d February, 1847.

This certificate was received and is truly recorded.

Test: RO. POLLARD, *Clerk.*

STATE OF VIRGINIA,
King William county, to wit:

I, Robert Pollard, clerk of the county court of the county aforesaid, in the State of Virginia, do hereby certify, that the foregoing is a true transcript from the records of said court.

In testimony whereof I hereto set my hand and annex the seal of the said county, this 7th day of May, in the year 1847, and in the 71st year of American independence.

RO. POLLARD,
Clerk of the county court of King William.

VIRGINIA, *King William county, to wit:*

I, Philip Aylett, presiding justice of the peace of the county court of said county, in the State aforesaid, do hereby certify, that Robert Pollard, who has given the preceding certificate, is clerk of the said court, and that his said attestation is in due form.

Given under my hand this seventh day of May, in the year 1847.

(Signed) PHILIP AYLETT.

Judgment, 14th May, 1847. *Succession of James P. Wilkinson.*

This cause came on this day for trial on the opposition filed by the State to the tableau of the curator, &c., Robert Mott, for representa-

tives of James P. Wilkinson, E. Musson, on behalf of the State, H. D. Ogden, for curator; when, after hearing testimony and argument of counsel, it is ordered, adjudged, and decreed, that the opposition filed by the State be dismissed with costs; that the tableau filed by the curator be approved and homologated; that Mrs. Catherine B. Hill, formerly the wife of James P. Wilkinson, deceased, be recognised as universal heir and devisee of said James P. Wilkinson, and put in possession of said succession; and that the curator account for and deliver all the property and money belonging to said succession to the said Catherine B. Hill, and that the costs of these proceedings be paid by the estate.

Signed 26th May, 1847.

(Signed) E. A. CANON, *Judge.*

STATE OF LOUISIANA,
Second district court of New Orleans.

I, Thomas C. Poole, clerk of the second district court of New Orleans, do hereby certify, that the above and foregoing twenty-nine pages do contain a true and complete transcript of the record in the matter of the succession of James P. Wilkinson, deceased, (excepting the inventories,) whose succession was opened in the late probate court in and for the parish and city of New Orleans, the papers of which court have by law been transferred to this court.

In testimony whereof I hereto set my hand and affix the seal of said court, in the city of New Orleans, this 9th day of April, in [SEAL.] the year of our Lord one thousand eight hundred and fifty, and in the 74th year of the independence of the United States.

JNO. C. POOLE, *Clerk.*

I, James N. Lea, sole judge of the second district court of New Orleans, State of Louisiana, do hereby certify, that "Thomas C. Poole" is clerk of the said court, and that the signature, "Thomas C. Poole," to the foregoing certificate, is in the proper handwriting of him, the said clerk; to all his official acts as such full faith and credit are due and owing; and I do further certify, that his attestation is in due form of law.

Given under my hand and seal, at the city of New Orleans, on this 9th day of April, in the year of our Lord one thousand eight [SEAL.] hundred and fifty, and the 74th year of the United States of America.

J. N. LEA, *Judge.*

Joinder and authorization of N. B. Hill, (No. 9,) offered and read by plaintiff, 21st May, 1850.

MRS. HILL vs. J. W. TUCKER, ex. } 1683

In the circuit court of the United States, for the 5th circuit and eastern district of Louisiana.

Now comes Nathaniel B. Hill, a citizen of the State of Virginia, residing in Richmond, in said State, and joins his wife in the said suit, and authorizes her [to] prosecute the same, and prays for judgment in favor of his said wife for the whole amount claimed, and also in favor of this appearer, and for general relief, &c.

N. B. HILL.

Note. Note.

[For depositions of James Lyons, Bacon Tate, Albert Michaels, R. G. Cabell, and Micajah Clark, and documents annexed, see pages from 6 to 11 of this transcript, where the same is copied.

J. W. GURLEY, *Clerk.*]

Deposition of Bolling S. Dandridge, filed May 14, 1849, *and offered and read by plaintiff*, 21 *May*, 1850.

UNITED STATES OF AMERICA,
Eastern district of Virginia,
City of Richmond, ss:

Be it remembered, that, on this sixth day of February, in the year of our Lord one thousand eight hundred and forty-nine, before me, P. V. Daniel, jr., a commissioner duly appointed in and for the eastern district of Virginia, under and by virtue of an act of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and of an act of Congress entitled "an act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and of an act entitled "an act to establish the judicial courts of the United States," passed September 24th, 1789, personally appeared Bolling S. Dandridge, a person of sound mind and lawful age, and a witness in a civil suit now depending in the circuit court of the United States, in and for the eastern district of Louisiana, wherein Catharine Hill is the plaintiff, and Joseph W. Tucker, executor of Abner Robinson, deceased, is the defendant. And the said Bolling S. Dandridge, being by me first carefully examined, and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth in the premises, did, in answer to the interrogatories propounded to him, depose and say as follows:

1st question by plaintiff. Look at the paper herewith filed, and marked (X) and say if the signature thereto is in your handwriting, and if so, when and for what purpose was it written?

Answer. This signature is in my handwriting, and was written I believe on the date therein mentioned (1st February, 1849.) It was written for the purpose of assigning this execution which I held against

Abner Robinson, executor of Mr. James P. Wilkinson, in trade, his mare therein mentioned, which assignment and trade I then made; and further this deponent saith not.

BOLLING S. DANDRIDGE.

UNITED STATES OF AMERICA,
Fourth circuit and eastern district of Virginia, and city of Richmond, ss:

I, P. V. Daniel, jr., a commissioner duly appointed by the circuit court of the United States, for the eastern district of Virginia, under and by virtue of the acts of Congress in the memorandum prefixed to the foregoing deposition mentioned, do hereby certify, that the reason for taking the foregoing deposition is, that the witness lives in the State of Virginia, more than one hundred miles from the city of New Orleans, in the State of Louisiana, the place of trial of the cause for and in which the said deposition was taken and is deemed necessary. I further certify, that no notice of the time and place of taking the said deposition was made out or served on the said defendant or adverse party, Joseph W. Tucker, executor of Abner Robinson, deceased, because neither the said adverse party, nor any attorney or agent of said adverse party, was at the time of taking the said deposition within one hundred miles of the city of Richmond, the place of taking the said deposition, to the knowledge of the undersigned. I further certify, that on this sixth day of February, A. D. 1849, I was attended by the witness, who was of sound mind and lawful age, and who was by me carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, in the premises, and the deposition of the said witness was by me reduced to writing in the presence of the said witness, and then by me carefully read to the said witness, who thereupon subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up and directing the same, and of forwarding it to the court for which it was taken. I further certify, that I am not of counsel or attorney to either of the parties to the suit in the said deposition or caption thereto mentioned, nor in any way interested in the event of the said civil cause named in the caption.

In testimony whereof I have hereunto set my hand and affixed my seal, this 6th day of February, A. D. 1849.

[SEAL.]

P. V. DANIEL, JR.,
U. S. com'r of the circuit and district courts of the U. S., for the eastern dist. of Va.

Paper marked (X,) referred to in the above deposition, and annexed thereto.

This is the paper testified to by the witness, B. S. Dandridge, in the accompanying deposition.

P. V. DANIEL, JR.,
Commissioner.

February the 1st, 1845.

Mr. L. Elliott will please deliver to James P. Wilkinson the execution in my favor against Abner Robinson's executors, for the within named amount, with all interest, costs, and damages thereon, it being for the purchase of his bay Tonson mare, Crow, in foal by his Leviathan horse. Now be it understood I trade him all my right to the within claim. If I have no claim, then I acknowledge myself bound for the within amount.

Given under my hand and seal, date as above.

B. S. DANDRIDGE. [SEAL.]

In Henrico county court, August, 1843.

BOLLING S. DANDRIDGE against WM. R. JOHNSON, and Joseph Allen, executors of Abner Robinson, deceased, defendants.	In case.

Verdict and judgment for plaintiff for $200 in damages, with six per cent. interest thereon, to be computed from the 1st day of January, 1843, till paid, and the costs; costs $9 47.

A copy teste: LOFTEN N. ELLETT, *C. H. C.*

After the evidence was closed, the plaintiff asked the court to decide, as if instructing a jury upon the evidence, as follows:

1st. The testator, Robinson, resided and died in Virginia, leaving a will which was duly proven in the proper tribunal after his death, in and by which he appointed the defendant and others his executors, and two only of his executors made probate, and qualified in the proper court in Virginia; and if suits were instituted by the plaintiff, and by others who have assigned their judgments and the causes of action on which their judgments were founded to the plaintiff, *to the plaintiff*, against the executors of Robinson, who qualified in Virginia, and obtained judgments against those executors in the appropriate courts of Virginia, having jurisdiction of such matters; and if upon those judgments executions issued and were returned by the proper officers in substance nulla bona; and if the defendant, a citizen of Louisiana, who never qualified as executor in Virginia, is a co-executor of the same estate, who has proved the will in Louisiana and taken on himself the execution thereof in Louisiana, has in hands ample assets in Louisiana to pay all debts; and if the evidence fully establishes these facts, that then the judgments so rendered in Virginia are evidence against the executor in Louisiana in this suit.

2d. That by the laws of Louisiana judgments are assignable, and that upon assigned judgments the assignee can maintain an action in his or her own name therefor.

3d. That under such a will as that of Robinson, produced in this

cause, the co-executors, although in different States, that qualified and acted, derived the same powers from the same source over the same estate, and that unlike administrators, they are to such estate of the decedent privies in estate; and the exemplifications of the records of the courts of Virginia, duly authenticated, which have been read in this cause, showing judgments against the only executors of Robinson who qualified in Virginia, in the appropriate court of probate of the domicil of the deceased, are evidence against the co-executor who qualified in Louisiana, and holds abundant assets in Louisiana.

4th. That if plaintiff *were* not entitled to recover against defendant on the production of the records showing the judgments against the co-executors in Virginia, and that those judgments were unsatisfied, because of a lack of assets in the hands of the Virginia executors to satisfy the same, that they would be entitled to recover, on producing the further evidence to prove that those judgments in Virginia were rendered on good and valid, and subsisting and unsatisfied, causes of action against the testator, Robinson.

5th. That the plaintiff has produced sufficient proof of the several causes of action, on which the judgments read in evidence were founded, to justify a jury in finding for the plaintiff upon those several original causes of action.

6th. That the several causes of action set forth in the petition, independent of the judgments rendered thereon against the co-executors in Virginia, are not, upon the testimony in this cause, barred by prescription.

7th. That upon all the evidence in this cause a jury might and should find a verdict for the plaintiff.

8th. That the several suits in Virginia, of which the records have been read, operated as a judicial interpellation to stop the running of prescription upon those several demands in favor of defendant.

And the defendant objected to said several propositions, and the court sustained his objections, and decided all and each of several propositions against the plaintiff, except the aforesaid proposition, No. 2; and to each of said decisions separately the plaintiff excepted.

And the defendant asked the court to decide:

1st. That no one of the records read to the court in this cause, showing judgments against his co-executors in Virginia, was evidence against this defendant.

2d. That each and every one of the causes of action set forth in the petition, and to which evidence had been adduced, was barred as to said defendant by presciption.

3d. That upon the whole evidence offered the plaintiff was not entitled to recover; and that upon the evidence a jury could rightfully, and should, find a verdict for the defendant; to each of which plaintiff objected.

And the court overruled the several objections of plaintiff, and de-

cided as asked by defendant; and to each of said opinions of the court the plaintiff excepted.

And now, on this day, plaintiff asked a new trial, on the following grounds: 1st. The court erred in refusing to decide as asked by plaintiff, and in deciding as asked by defendant. 2. Because the judgment rendered upon the evidence in this cause is against law. 3. The judgment is not authorized or warranted by the pleadings and the evidence in the cause. 4th. The plaintiff was entitled to recover, and the judgment is against law and evidence. 5. Because the plaintiff was entitled to recover, either on the unsatisfied judgments against the co-executors, or upon the proof which she made establishing the validity of the original causes of action on which those judgments were founded, and certainly on both. 5th. Because the court erred in each and every decision made in the progress of this *of this* cause, to the prejudice of the plaintiff. 6th. Because co-executors are privies in estate. 7th. Because the defendant was not entitled to a judgment in his favor; and 8th. Because the several causes of action set forth in the petition were not barred by the prescription laws of Louisiana. And the court overruled the motion for a new trial, as asked, to which also plaintiff excepts; and plaintiff now asks that this his bill of exceptions may be signed, sealed, and enrolled, which is accordingly done.

THEO. H. McCALEB, [SEAL.]
United States judge.

Filed June 19th, 1850, nunc pro tunc, by order of court.
J. W. GURLEY, *Clerk.*

And afterwards, to wit, on the 13th June, A. D. 1850, the court rendered in this cause a final judgment, which was entered of record on the minutes, and also recorded on the judgment docket, and signed by the honorable Theo. H. McCaleb, United States judge, as follows:

New Orleans, Thursday, 13th June, 1850.

Court met pursuant to adjournment.

Present, honorable Theo. H. McCaleb, district judge; absent, honorable John McKinley, presiding judge.

Mrs. CATHARINE HILL
vs. } No. 1683.
J. W. TUCKER, executor, &c.

This cause having been argued and submitted to the court on a former day, and the court having maturely considered the same, doth now order, adjudge, and decree, that there be judgment in favor of the defendant, J. W. Tucker, executor, &c., and against the plaintiff, Mrs. Catharine Hill; and it is further ordered that plaintiff pay the costs of suit.

Judgment rendered 13th June, 1850; signed 21st June, 1850.

THEO. H. McCALEB, [SEAL.]
United States judge.

And afterwards, to wit, on the 11th day of December, 1850, the plaintiff, by his attorneys, G. Duncan and R. Mott, esqrs., filed herein a petition for writ of error, as follows:

To the honorable the circuit court of the United States, for the 5th circuit and eastern district of Louisiana, the petition of Mrs. Catharine Hill respectfully shows:

That on the 21st day of June, 1850, a final judgment was rendered against her in this court, in the case of Mrs. Catharine Hill vs. Joseph W. Tucker, executor, &c., No. 1683 of the docket, and that she is informed and believes that there is error in said judgment to the prejudice of this petitioner; she prays that a writ of error be allowed her, returnable to the next term of the Supreme Court, on her furnishing bond conditioned according to law, and in such sum as may be fixed by the court.

G. DUNCAN & RO. MOTT,
Attorneys.

And afterwards, to wit, on the 11th day of December, 1850, the following order was made by the court, and entered of record on the minutes:

(*Order directing writ of error to be issued.*)

Mrs. CATHARINE HILL
vs. } 1683.
J. W. TUCKER, exr., &c.

On motion of Robert Mott, attorney for plaintiff, and on his filing a petition representing that the plaintiff feels aggrieved at the judgment herein rendered on the 21st June last, and praying for a writ of error returnable to the next term of the Supreme Court, it is ordered, that the same be allowed as prayed, on plaintiffs furnishing bond with good and solvent security in the penal sum of , conditioned according to law.

Bond filed 18th January, 1851.

Know all men by these presents, that we, Catharine Hill and N. B. Hill, as principal, and A. A. Fraser, as surety, are held and firmly bound unto Joseph W. Tucker, executor of Abner Robinson, deceased, in the full and just sum of five hundred dollars, to be paid to the said Joseph W. Tucker, executor, &c., his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this 18th day of January, in the year of our Lord one thousand eight hundred and fifty-one.

Whereas lately, at a circuit court of the United States, fifth judicial circuit, holding sessions in and for the eastern district of Louisiana,

in a suit depending in said circuit court, wherein Mrs. Catharine Hill is plaintiff, and Joseph W. Tucker, executor, &c., is defendant, judgment was rendered against the said Mrs. Catharine Hill, plaintiff; and the said Mrs. Catharine Hill having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court to reverse the judgment in the aforesaid suit, and a citation directed to the said Joseph W. Tucker, executor, &c., citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next: Now, the condition of the above obligation is such, that if the said Mrs. Catharine Hill shall prosecute her writ to effect, and answer all damages and costs if she fail to make her plea good, then the above obligation to be void, else to remain in full force and virtue.

CATHARINE HILL, [L. S.]
By ROBT. MOTT, *her Attorney*,
N. B. HILL, *by same*, [L. S.]
A. A. FRASER. [L. S.]

Sealed and delivered in presence of—

Approved. THEO. H. McCALEB,
U. S. judge.

United States of America, circuit court of the United States, fifth circuit and eastern district of Louisiana.

CLERK'S OFFICE:

I, John W. Gurley, clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, do hereby certify, that the foregoing 59 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Mrs. Catharine Hill, plaintiff, vs. Joseph W. Tucker, executor, &c., defendant, No. 1683 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of February, A. D. 1851.

[SEAL.] J. W. GURLEY, *Clerk.*

I, Theodore H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify, that John W. Gurley, whose name is signed to the above certificate, as clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 18th day of February, A. D. 1851.

THEO. H. McCALEB. [SEAL.]

UNITED STATES OF AMERICA, ss:

The President of the United States, to the honorable the judges of the circuit court of the United States, in and for the 5th circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between Mrs. Catharine Hill and Joseph W. Tucker, executor of Abner Robinson, deceased, a manifest error hath happened, to the great damage of the said Mrs. Catharine Hill, as by her complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this twentieth of January, in the year of our Lord one thousand eight hundred and fifty-one.

J. W. GURLEY,
Clerk of the United States circuit court, and eastern district of Louisiana.

The United States of America, to Joseph W. Tucker, executor of Abner Robinson, deceased, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, wherein Mrs. Catharine Hill is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this twentieth day of January, in the year of our Lord one thousand eight hundred and fifty-one.

THEO. H. McCALEB,
U. S. judge.

1529.

Marshal's return.

Received 21st January, 1851, and on the 22d of January, 1851, served a copy of the within citation in error on Miles Taylor, esq., attorney for defendant, in person at New Orleans, and returned 22d January, 1851.

N. W. BUTLER,
Deputy United States marshal.